

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

251+121

CRM-M-19741-2022 (O & M)

Date of decision:28.10.2022

Ajay Kalia and another

... Petitioners

Vs.

The Union Territory, Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jagat Vir Dhindsa, Advocate for
Mr. S.S. Aulakh, Advocate for the petitioners.

Mr. Abhinav Gupta, Addl. P.P., U.T., Chandigarh.

Mr. Arun Sharma, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-40669-2022

Application is allowed as prayed for.

Judgment and decree of divorce dated 29.08.2022 passed
under Section 13-B of the Hindu Marriage Act, 1955, are taken on record
as Annexures P-8 and P-9, respectively.

Main Case

On 05.08.2022, this Court passed the following order in the
main case:-

*“Prayer in this petition is for quashing of
FIR No.19 dated 06.02.2020 under Sections 406 and
498-A of IPC, 1860, registered at Women Police
Station, Chandigarh, Annexure P-1, along with all
consequential proceedings arising therefrom, on the
basis of compromise deed dated 11.04.2022,*

Annexure P-3.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the mother-in-law of complainant/respondent No.2. He submits that marriage of petitioner No.1 was solemnized with the complainant/respondent No.2 on 19.01.2016 and there is no child out of the wedlock. He submits that due to temperamental differences, parties have been residing separately since March, 2017 and FIR, Annexure P-1, is an outcome of bitterness and acrimony between them. Counsel submits that the matrimonial dispute has been settled by virtue of compromise, Annexure P-3, petition seeking divorce by mutual consent has been instituted and first motion has been recorded. As per his instructions, against permanent alimony of Rs.15 lac, half the amount has been paid and the balance is to be paid at the time of recording of second motion.

Notice of motion.

On asking of the Court, Mr. Abhinav Gupta, APP, UT, Chandigarh, accepts notice on behalf of respondent No.1-State. As per instructions received by him from ASI Satayawan Singh, he submits that matter is pending investigation and even though petitioner No.2 has joined the investigation, but petitioner No.1 has not done so as he is residing abroad. Mr. Arun Sharma, Advocate accepts notice on behalf of the complainant/respondent No.2. His Vakalatnama is already on the record. He admits the factum of compromise and does not dispute the statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 23.08.2022 or on any day thereafter as is convenient to the Trial Court/Area Magistrate, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties.

5. whether any other criminal case is pending against the accused.

Report of Area Magistrate/Trial Court be awaited for 28.10.2022.

As petitioner No.1 is stated to be residing in Spain, the trial court shall make necessary arrangements to get his statement recorded through the medium of video conferencing in the presence of counsel representing him before the trial court, who will identify petitioner No.1.

Judgment and decree of divorce, if passed, shall be placed on the record before the next date.”

By referring to the judgment and decree, Annexures P-8 and P-9, counsel for the petitioners submits that the balance permanent alimony has been paid and marriage has been dissolved by mutual consent.

Counsel for the complainant/respondent No.2 has admitted this fact and does not oppose the prayer made in the petition.

Heard counsel for the parties.

In deference to the above reproduced order, report has been received from the trial court and its relevant extract is as under:-

“7 (i) It is humbly submitted that there are only two accused namely Ajay Kalia and Kamlesh Kalia arrayed in the present FIR. Both the said accused persons have got recorded their statements regarding the compromise effected between them and the complainant. As per the statement of the Investigating Officer of this case, the accused of the present FIR are not involved in any other case and they have never been declared proclaimed persons/proclaimed offenders in this case or in any other criminal case. None of the accused persons involved in the present case is absconding.

ii) There is only one complainant and injured/aggrieved person, namely Mamta Kalia, in the present FIR. She has appeared before this Court and has got recorded her statement regarding the compromise effected between her and the accused persons.

(iii) In the case in hand, the Challan has not been presented yet and the compromise has been effected between the parties at the stage of its investigation.

(iv) From the statements of the parties, it

seems that the compromise between the parties is genuine, voluntary and the same has been arrived at between the parties without any undue influence or pressure.

(v) As per the statement of the Investigating Officer of this case, the accused of the present FIR are not involved in any other case and they have never been declared proclaimed persons/proclaimed offenders in this case or in any other criminal case.”

It is evident that FIR, Annexure P-1, has emanated from a matrimonial dispute, which has been amicably settled. The parties have not only gracefully parted ways, but have also settled all the disputes. Keeping in view the report of the trial court and the judgments of the Supreme Court in ***B.S. Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888*** and ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court is of the view that keeping the criminal proceedings alive would only complicate matters and ends of justice would be secured, in case the criminal proceedings are set aside.

Accordingly, petition is allowed. FIR No.19 dated 06.02.2020 under Sections 406 and 498-A of IPC, 1860, registered at Women Police Station, Chandigarh, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

28.10.2022

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**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No