

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(275)

CRM-M-20907-2022
Date of Decision:- 16.09.2022

Ajay Kumar and others

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sant Lal Barwala, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana
for State-respondent No.1.

Mr. Kushagra Beniwal, Advocate
for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

At the outset, upon instructions received from ASI, Jagmeet Singh, State counsel submits that during investigation, petitioners No.4 and 5 have been found to be innocent.

Faced with this statement, counsel for the petitioners seeks and is granted permission to withdraw the petition qua petitioners No.4 and 5.

Dismissed as withdrawn **qua petitioners No.4 and 5.**

On 16.05.2022, this Court passed the following order:-

“Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.0125 dated 26.04.2019 registered under Sections 120-B, 307, 377, 406, 498-A, 506 of Indian Penal Code, 1860 at Police Station Civil Lines Sirsa, District Sirsa (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 21.02.2022 (Annexure P-2).

Counsel for the petitioners submits that petitioner No.1 is the husband of complainant-respondent No.2 and petitioners No.2 to 5 are the relatives of petitioner No.1. The marriage of petitioner No.1 was solemnized with the complainant-respondent No.2 on 22.02.2016 and a daughter was born out of the wedlock, but due to temperamental differences, the couple could not pull along and have been living separately since 19.01.2018. He submits that FIR is an offshoot of a matrimonial dispute, which has been settled by compromise (Annexure P-2). Counsel submits that marriage has been dissolved by mutual consent, vide judgment and decree dated 12.03.2022 (Annexure P-3) under Section 13-B of Hindu Marriage Act, 1955 and as per the terms of the compromise, entire permanent alimony of Rs.14.25 lacs has been paid. He submits that custody of minor daughter will remain with the complainant-respondent No.2. It is his argument that the complainant has not levelled any allegation in the FIR (Annexure P-1), attracting offence under Section 377, IPC, which has been added later on her subsequent statement.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana accepts notice on behalf of respondent No.1-State. Upon instructions from ASI Jagmeet Singh, she submits that matter is under investigation.

Mr.Vishavjeet, Advocate, who appears on behalf of the complainant-respondent No.2, has filed his 'Vakalatnama', which is taken on record. He has admitted the factum of compromise as well as statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Trial Court/Area Magistrate on 26.07.2022 or on any day thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Area Magistrate shall submit a report 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 Trial Court/Area Magistrate be awaited for 16.09.2022.”

Report has been received pursuant to the above reproduced order and its relevant extract is as under:-

“From the statements as well as oral examination of parties, this Court is of the opinion that the matter in question has been compromised between the parties without any fear, coercion, inducement or threat. It further reveals that the compromise is voluntary and effected with free will.

It is further submitted that complainant is the only aggrieved person in this case and the complainant and three accused, who have arraigned in this case, have appeared in the Court for getting their statement recorded regarding the compromise.

That as per the Investigating Officer and accused persons/petitioners, no other criminal case is pending against them and they have not been declared P.O. in this case. In the present case, all the three accused have joined in the investigation and challan/charge-sheet has yet not filed by the Investigating Agency.”

It is evident that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been amicably settled and marital ties have has ended in a divorce by mutual consent.

Keeping in view the above development, report of the Trial Court and the judgments of Supreme Court in ***Gold Quest International Private Limited Versus The State of Tamil Nadu and others (2014) 15 SCC 235*** 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 be a futile exercise.

Accordingly, the petition is allowed. FIR No.0125 dated 26.04.2019 registered under Sections 120-B, 307, 377, 406, 498-A, 506 of Indian Penal Code, 1860 at Police Station Civil Lines Sirsa, District Sirsa, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua petitioners No.1 to 3.

(SUVIR SEHGAL)
JUDGE

16.09.2022
Kamal

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