

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(273)

CRM-M-22436-2019

Date of Decision:- 21.07.2022

Vikram Khemka and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Karan Singla, Advocate for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab for State-respondent No.1

Mr. Puneet Kumar Bansal, Advocate for
Mr. A.K.Ranolia, complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

Upon instructions received from ASI, Jaswant Singh, State counsel submits that petitioner No.1 has expired during the pendency of the instant petition.

In view of this development, petition is rendered infructuous ***qua petitioner No.1.***

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.38 dated 27.05.2018, registered for offences under Sections 406, 498-A and 120-B of the Indian Penal Code, 1860, at Police Station Women, Police Commissionerate, Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise agreement dated 18.04.2018, Annexure P-2, arrived at between the parties and the statement dated 22.04.2019, Annexure P-4, recorded under Section 13-B of the Hindu Marriage Act, 1955.

Counsel for the petitioners submits that petitioner No.1 (now deceased) is the husband, petitioner No.2 is the brother-in-law and petitioner No.3 is the mother-in-law of complainant-respondent No.2. Counsel submits that marriage of petitioner No.1 was solemnized with complainant-respondent No.1 on 16.01.2012 at Jalandhar and there is no issue out of the wedlock. He submits that the parties could not adjust with each other and had been living separately for years together. Counsel submits that the matrimonial dispute had been settled by way of compromise, Annexure P-2, marriage had been dissolved by mutual consent under Section 13-B of the Hindu Marriage Act, 1955 and the entire permanent alimony of Rs. 5 lacs was paid during the life time of petitioner No.1.

Upon instructions, State counsel submits that on completion of investigation, challan was presented against all the three accused-petitioners, however, charge has not been framed.

Counsel representing the complainant-respondent No.2 has admitted the factum of compromise and does not dispute the statement made by counsel for the petitioners.

Heard counsel for the parties.

Vide order dated 18.12.2019, this Court directed the parties to appear before the Area Magistrate/Duty Magistrate/Trial Court for getting their statements recorded in support of the compromise and a report was called for regarding the genuineness of the compromise as also as to whether any of the parties have declared as proclaimed offender. After recording the statement of the parties, the Trial Court has sent a report, the relevant extract of which is as under:-

“4. In compliance to the aforesaid order dated

18.12.2019 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted that in view of the statements got recorded by the complainant Poonam and accused Bimla Khemka and Sunil Khemka, it comes out that accused Vikram Khemka has expired on 22.12.2019 and this Court is satisfied that the compromise effected between the parties is genuine one, which is not the result of any pressure or coercion and the settlement effected between them is not having any adverse affect upon the rights of any third party. It is also submitted that no one has even been declared Proclaimed Offender/absconder in the present case and challan in the present case has already been presented before this Court on 03.08.2019.”

FIR, Annexure P-1, is essentially an outcome of a matrimonial dispute between petitioner No.1 (now deceased) and complainant-respondent No.2. The dispute was resolved and their marriage also stood dissolved before the death of petitioner No.1.

In view of the above backdrop as well as the report of the Trial Court and the judgment of Supreme Court in ***B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888*** and ***Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322***, this Court is prima facie of the view that the continuation of the criminal proceedings would be an exercise in futility.

Accordingly, the petition is allowed. FIR No.38 dated 27.05.2018, registered for offences under Sections 406, 498-A and 120-B of the Indian Penal Code, 1860, at Police Station Women, Police Commissionerate, Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners No.2 and 3.

21.07.2022
Kamal

(SUVIR SEHGAL)
JUDGE

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