

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

204+121

CRM-M-28659-2021 (O & M)

Date of decision:10.03.2022

Rahul Upadhyay and others

... Petitioners

Vs.

The State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Kanwar Abhay Singh, Advocate
for the petitioners.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. Rajat Malhotra, Advocate for respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-44621, 44622 and 44623-2021

For the reasons given in the applications, they are allowed.

Affidavits of petitioners No.1 to 3 are taken on record.

Main Case

Instant petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No.08/21 dated 07.01.2021 under Sections 406/498-A of IPC, 1860, registered at Police Station Khanna, City-2, Khanna, District Ludhiana, Annexure P-2, along with all consequential proceedings arising therefrom, on the basis of compromise/settlement, arrived at between the parties.

At the outset, counsel for the petitioners submits that as petitioner

No.2, who is father-in-law of the complainant/respondent No.2 has not been arraigned as an accused, he may be permitted to withdraw the petition qua him.

Petition is dismissed as withdrawn qua petitioner No.2.

Insofar petitioners No.1 and 3 is concerned, counsel submits that petitioner No.1 is the husband and petitioner No.3 is mother-in-law of the complainant/respondent No.2. Counsel submits that the marriage of petitioner No.1 was solemnized with complainant/respondent No.2 on 16.04.2019, the parties cohabited at Ludhiana and there was no issue out of the wedlock. He submits that the parties could not adjust with each other due to temperamental differences and have been residing separately since 26.11.2019 and FIR, Annexure P-2, is an outcome of matrimonial dispute, which has been compromised between the parties by virtue of compromise dated 25.03.2021 (copy of which has been sent by the Mediation and Conciliation Centre, Ludhiana, in connected petition, CRM-M-3641-2021). Counsel submits that in terms of the compromise, marriage between the parties has been dissolved by virtue of judgment and decree dated 09.11.2021 and a sum of Rs.20 lac has been paid to the complainant/respondent No.2. Still further, he submits that pursuant to order passed by this Court, the statements of the parties have been recorded and a report has been received alongwith a judgment and decree of divorce passed under Section 13-B of the Marriage Act, 1955. Counsel for the petitioner has invited the attention of the Court to the affidavit dated 14.12.2021 of petitioner No.1, wherein it has been deposed as under:-

“5. That now the marriage between the petitioner No.1 and the complainant stands dissolved vide judgment and decree dated 09.11.2021 passed by Additional Principal Judge Family Court, Ludhiana in terms of Section 13B of the Hindu Marriage Act, 1955.

It is pertinent to mention that amount of Rs.10 Lakh was paid to the complainant on 12.04.2021 when a statement of first motion was recorded and Rs.10 Lakh was again paid on 18.10.2021 when the statement of second motion was recorded. Now every claim against the petitioners at the behest of complainant stands settled and only the ishtridhan and dowry articles are to be released from PS City-II Khanna, which the complainant is at absolute liberty to claim by filing superdari in this regard.

6. That however, in any eventuality, the present FIR is quashed before the complainant has acquired/received the said ishtridhan/dowry articles from PS City-II Khanna, the deponent hereby solemnly affirm and declare that in case the said gold articles amounting to ishtridhan is received by deponent or any family member of deponent, then deponent shall be bound to deliver the same on to the complainant at the earliest, with all the articles as mentioned in the receipt dated 04.02.2021 in its entirety.”

Upon instructions from ASI Jagdev Singh, State counsel submits that the matter is under investigation and in terms of orders passed by this Court granting interim anticipatory bail in CRM-M-3641-2021, petitioner No.1 has joined the investigation.

Counsel representing respondent No.2 has admitted the factum of compromise as well as the statement made by counsel for the petitioners.

Heard counsel for the parties.

Vide order dated 23.07.2021, this Court directed the parties to appear before the Court below to get their statements recorded and a report was called for with regard to the genuineness of the compromise and also as to whether there is any other victim, whose consent is required. Report has been received and its relevant extract is reproduced as under:-

“The statement of petitioner no.1 Shruti and statement of petitioner no.2 Rahul Upadhyay have been recorded by the Court of undersigned. As per the statement of petitioner no.1 Shruti wife of Rahul Upadhyay, petitioner no.2, on her complaint, FIR no. 8 dated 07.01.2021 was registered at Police Station Khanna City II District Ludhiana u/s 498-A, 406 IPC. With the intervention of respectables, the matter had

already been compromised and in view of that, she has earlier made first statement required u/s 13-B of HMA for dissolution of her marriage and on 18.10.2021, she has made second statement so required u/s 13-B of HMA for dissolution. She has received full and final settled amount i.e. Rs. 20 lacs and she has no objection if the above stated FIR bearing no. 8/07.01.2021, Police Station Khanna City II District Ludhiana, u/s 498-A, 406 IPC is quashed by the Hon'ble Punjab & Haryana High Court. She shall remain bound by her statement recorded in Ex.PA and shall also be bound to present herself before the Hon'ble Punjab & Haryana High Court, if so required. As per statement of petitioner no.2 Rahul Upadhyay, on the complaint of his wife Shruti, FIR no. 8 dated 07.01.2021 was registered at Police Station Khanna City II District Ludhiana u/s 498-A, 406 IPC. With the intervention of respectables, the matter had already been compromised and in view of that, he has earlier made first statement required u/s 13-B of HMA for dissolution of his marriage and on 18.10.2021, he had made second statement so required u/s 13-B of HMA for dissolution. He had given full and final settled amount i.e. Rs.20 lacs to Shruti. He shall remain bound by his statement recorded in Ex.PB and shall also be bound to present himself before the Hon'ble Punjab & Haryana High Court, if so required.

As per the above said order of the Hon' ble High Court, the court of the undersigned had satisfied itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure. Apart from it, the report is further submitted that no other person is involved in the occurrence, who is not a party to the petition and whose consent for compromise would be required (as per the parties, who are present in the Court alongwith their counsels). Even Ms. Vinita Gupta, Advocate, learned counsel for petitioner no.2 also suffered statement to the effect that there is no any person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if the Hon'ble High Court decides to quash the FIR. Both the parties now want the FIR to be quashed so as to enable the parties to live in peace and harmony.

During the course of hearing of the petition on 16.12.2021,

State counsel submitted that though the statement of petitioner No.1 and the

complainant has been recorded, but petitioner No.3, who is also an accused

has not appeared before the Trial Court nor has the Investigating Officer. Therefore, this Court directed petitioner No.3 as well as Investigating Officer to appear before the Court below and a fresh report was called for, which has been received and reads as under:-

“(1) The statement of petitioner No.3 Anju seems to be bonafide and from the statement of petitioner No.3 Anju, compromise seems to be authentic as already divorce decree has been passed between complainant Shruti and accused Rahul Upadhyay. Her statement appeared to be without any kind of undue influence or pressure (Remaining parties appeared before the learned Family Court, Ludhiana, and report qua them has been submitted by the said Court before the Hon'ble High Court).

(2) Further, as per the statement of Investigating Officer ASI Jagdev Singh No.514/Khanna, case was registered only against two persons namely Rahul Upadhyay and Anju by complainant Shruti. Hence, there is no other person who is involved in the present occurrence except the parties to the quashing petition.”

Supreme Court in ***Gian Singh Versus State of Punjab and another***, 2012(4) RCR (Criminal) 543 has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. A Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another***, 2007(3) RCR (Criminal) 1052 and Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another***, 2013(4) RCR (Criminal) 102 has held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving non-compoundable offences.

In **Ramgopal and another Versus The State of Madhya**

Pradesh 2021 SCC Online 834, Supreme Court has held that limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.

FIR is an outcome of a marital discord between the parties, which has been settled and the statements of both the accused (petitioner No.1 and 3) as well as Investigating Officer have been recorded and reports have been received that the compromise is genuine and without any undue influence or pressure. It has also been reported that besides two accused, no other person is involved in the occurrence.

Considering the fact that the dispute has been amicably settled and the marriage has been dissolved, this Court is of the opinion that the quashing of the FIR would enable the parties to lead a peaceful life. Counsel for the parties are also *ad idem* that in view of the settlement between the parties, the present petition deserves to be accepted. Therefore, no purpose will be served in continuing with the criminal proceedings.

Accordingly, the petition is allowed. FIR No.08/21 dated 07.01.2021 under Sections 406/498-A of IPC, 1860, registered at Police Station Khanna, City-2, Khanna, District Ludhiana, Annexure P-2, and all the consequent proceedings arising therefrom, are quashed qua petitioners No.1 and 3.

10.03.2022
sheetal

(SUVIR SEHGAL)
JUDGE

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