

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

272+119

CRM-M-3806-2021

Date of decision:09.11.2022

Sushil Kumar and others

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Mohan Singla, Advocate for the petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Arun Sharma, Advocate for respondent No.2.

SUVIR SEHGAL J. (ORAL)**CRM-35631-2022**

Application is allowed as prayed for.

Judgment and decree dated 03.02.2021 passed under Section 13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure P-6.

Main Case

On 28.01.2021, this Court passed the following order:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Prayer in this petition is for quashing of FIR No.23 dated 03.03.2016 (Annexure P-1) registered under Sections 34/498-A/377/506 of Indian Penal Code, 1860, however, later on, the provisions were changed to Sections 34/498-A/323/405/506 IPC, at Police Station Women, District Yamuna Nagar, alongwith all consequential proceedings arising therefrom, on the basis of compromise dated 09.07.2020 (Annexure P-2) arrived at between the parties.

Counsel for the petitioners has submitted that FIR lodged by the complainant-respondent No.2, wife of petitioner No.1, is an outcome of matrimonial dispute between the parties. He has referred to the compromise, Annexure P-2 and submitted that petition for dissolution of marriage under Section 13-B of Hindu Marriage Act, 1955 has been filed and half of the alimony amount has been paid to the complainant at the time of recording of first motion. According to him, the second motion is to be recorded on

03.02.2021 when the balance amount will be paid. He has referred to para 10 of the petition to submit that none of the petitioners has been declared as Proclaimed Offender by any Court.

Notice of motion.

On asking of the Court, Mr. Rajiv Sidhu, Deputy Advocate General, Haryana accepts notice on behalf of respondent No.1-State and Mr. Arun Sharma, Advocate appears on behalf of respondent No.2. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Duty Magistrate/Illaq Magistrate on 03.02.2021 for getting their statements recorded with regard to the compromise. The Duty Magistrate/Illaq Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court 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 Duty Magistrate/Illaq Magistrate be awaited for 31.03.2021.”

Counsel for the petitioners submits that the balance permanent alimony has been paid, second motion has been recorded and marriage has been dissolved by judgment and decree, Annexure P-6. By making a reference to the terms of the compromise, Annexure P-2, counsel submits that the custody of the minor child born out of the wedlock, is to remain with complainant/respondent No.2.

Upon instructions from HC Meenakshi, State counsel submits that the prosecution evidence has concluded.

Counsel for complainant/respondent No.2 has admitted the factum of compromise as also the fact that entire permanent alimony of

Rs.9.50 lacs has been received.

Heard counsel for the parties.

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

“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;

As per the statement/report of Investigating Officer, present FIR bearing No.23 dated 03.03.2016 under sections 498A, 377, 323, 405, 506 read with section 34 of IPC, Police Station Women, Yamunanagar was registered against accused Sushil Kumar, Dayal Chand, Kaushalya, Pawan Kumar and Pooja.

Upon investigation, Pawan Kumar and Pooja were found innocent.

Apart from the aforesaid accused, there is no other accused person who has been declared as proclaimed person or is absconding.

All the accused namely Sushil Kumar, Dayal Chand and Kaushalya against whom Final Report under section 173 Cr.P.C was filed, have appeared and got recorded their statements.

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

As per the statement/report of Investigating Officer, the complainant in the present case is Ritu Bala and she has a minor daughter. There is no other aggrieved person in the present FIR. Complainant Ritu appeared and her statement as to compromise was recorded.

3. Status of trial/proceedings;

As per the statement of Investigating Officer, Final report under section 173 Cr.P.C. was filed on 30.04.2016. As per report of concerned Ahlmad, the present case bearing FIR no.23 dated 03.03.2016 under sections 498A,377, 323, 405, 506 read with section 34 of IPC, Police Station Women, Yamunanagar is pending for 25.02.2021 at the stage of defence evidence, if any or for arguments in the court of Sh. Rajat Verma, Learned Judicial Magistrate First Class, Yamunanagar at Jagadhri.

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

With regard to compromise between the parties, it is submitted that before recording the statements, parties were also orally questioned by the

undersigned regarding genuineness and validity of the compromise and they stated that they have entered into the compromise voluntarily and with free will. In my view the compromise is genuine, and the parties have entered the compromise with free-will without any undue influence or coercion.

5. Whether any other criminal case is pending against the accused;

As per the statement/report of the Investigating Officer, there is no criminal case pending against the accused involved in the present FIR in Police Station Women, Yamunanagar. As per statement of the accused also they have stated that there is no other criminal case pending against the accused.”

It is evident that FIR, Annexure P-1, has emanated from a matrimonial dispute, which has been amicably settled. Parties have decided to bury the hatchet and lead their independent lives. In view of the above development and judgment of the Supreme Court in ***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, petition is allowed. FIR No.23 dated 03.03.2016, Annexure P-1, registered under Sections 34/498-A/377/506 of Indian Penal Code, 1860, however, later on, the provisions were changed to Sections 34/498-A/323/405/506 IPC, at Police Station Women, District Yamuna Nagar, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

09.11.2022

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(SUVIR SEHGAL)

JUDGE

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