

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(118+272)

CRM-M-42301-2021 (O&M)
Date of Decision:- 14.07.2022

Arvind Kumar

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Narender Kaajla, Advocate for the applicant-petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana
for State-respondent No.1.

Mr. Gurmail Singh Duhan, Advocate
for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-23214-2022

Application is allowed as prayed for.

Judgment dated 02.05.2022 passed under Section 13-B of the
Hindu Marriage Act, 1955, whereby marriage has been dissolved by mutual
consent is taken on record as Annexure P-5.

Main case

On 18.11.2021, this Court passed the following order:-

*“Instant petition has been filed under Section 482
of the Code of Criminal Procedure, 1973 seeking quashing of
FIR No.623 dated 29.07.2016 under Sections 498-A and 506
of the Indian Penal Code, 1860, registered at Police Station
Sadar, Hisar, Annexure P-1, along with all subsequent
proceedings arising therein, on the basis of compromise
dated 29.09.2021, Annexure P-2.*

*Counsel for the petitioner submits that the
petitioner was married to the complainant-respondent No.2*

on 18.10.2015 and there was no issue from the marriage. He submits that due to marital discord, the parties separated, a spate of litigation ensued between them, and all the disputes have been resolved by compromise dated 29.09.2021, Annexure P-2. He submits that in terms of the compromise, a petition under Section 13-B for dissolution of marriage by mutual consent has been filed, wherein first motion has been recorded on 29.09.2021, Annexure P-3, Rs.2 lacs out of the agreed permanent alimony Rs.3.75 lacs has been paid, and the balance amount is to be paid at the time of recording of the second motion on 30.03.2022. He submits that the petitioner has not been declared as a proclaimed offender.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana accepts notice on behalf of State-respondent No.1. Mr. Gurmail Singh Duhan, Advocate has put in appearance and accepts notice on behalf of respondent No.2. He has filed his vakalatnama, which is taken on record. He has admitted the statement of counsel for the petitioner.

The parties and the Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 20.12.2021 or on any date thereafter as fixed by the trial Court, for getting their statements recorded with regard to the compromise. The Illaqa 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 the Illaqa Magistrate/trial Court be awaited for 25.04.2022.”

Counsel for the petitioner submits that the petitioner has paid the balance amount of Rs.1.75 lacs and marriage has been dissolved. He submits that the parties have appeared before the Trial Court and their statements have been recorded in pursuance to the above reproduced order.

Upon instructions received from ASI, Kashi Ram, State counsel submits that upon conclusion of the investigation, final report has been presented and charge has been framed against the petitioner under Sections 323, 406, 498-A and 506 of the Indian Penal Code, 1860 (for short "IPC"). Still further, she submits that prosecution evidence is underway and the complainant has been examined.

Counsel representing complainant-respondent No.2 has admitted the developments brought to the notice of this Court by counsel for the petitioner.

Heard counsel for the parties.

Report from the Trial Court has been received in compliance of order dated 18.11.2021 and its relevant extract is as under:-

"i. Names of accused arrayed in the FIR:-1. Arvind Kumar S/o Krishan Rahar, 2. Ram Murti W/o Krishan Rahar.

However, challan has been submitted only against accused Arvind Kumar. Accused Arvind Kumar appeared before this Court and made statement regarding compromise effected between the parties. As per records of the case and report of Ahlmad, the accused Arvind is not absconding/PO in this case. These facts have also been verified by the parties and Investigating Officer in their statements.

ii. Name of complainant/injured/aggrieved: Renu W/o Arvind Kumar, D/o Kamal Singh. As per FIR, and as verified from parties as well as IO, there is only one aggrieved in the present case, i.e., complainant Renu, who appeared before this Court and made her statement in support of the compromise.

iii. The proceedings of this case are at the stage of prosecution evidence.

iv. In view of the statements of the parties, I am satisfied that the parties have compromised the matter without any fear or pressure and that the compromise is genuine and has been voluntarily arrived at between them out of their free will.

v. As per statements of parties and Investigating Officer, no other criminal case is pending against the accused."

It is apparent that FIR, Annexure P-1, is a fallout of a matrimonial dispute, which has been settled and marriage has been dissolved by mutual consent. In these circumstances, this Court is of the view that continuation of the criminal proceedings will be a futile exercise, rather setting them aside will enable the parties to lead a peaceful life.

In the above backdrop, report of the Trial Court as well as judgments of the Supreme Court in *Gold Quest International Private Limited Versus The State of Tamil Nadu and others (2014) 15 SCC 235*, *B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888* and *Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujrat and another (2017) 9 SCC 641*, this Court is of the opinion that penal proceedings deserve to be set aside in exercise of inherent powers of this Court.

Accordingly, the petition is allowed. FIR No.623 dated 29.07.2016 under Sections 498-A and 506, IPC, registered at Police Station Sadar, Hisar, Annexure P- 1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

14.07.2022
Kamal

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