

CRM-M-47101-2021

Date of Decision:28.09.2022

RAJINDER SINGH AND OTHERS

...Petitioners

VS

STATE OF PUNJAB AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.S. Guliani, Advocate
for the petitioners.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab.

Mr. J.S. Lalli, Advocate
for the complainant-respondent No.2.

SUVIR SEHGAL, J. (ORAL)

On 10.11.2021, this Court had passed the following order:-

“Instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.129 dated 03.09.2016 registered under Sections 323, 324, 328, 498-A, 149 of Indian Penal Code, 1860 at Police Station Zira, District Ferozepur (Annexure P-1) and all other subsequent proceedings arising therefrom, on the basis of agreement deed dated 14.09.2016 (Annexure P-2) arrived at between the parties and decree of divorce dated 13.07.2017 (Annexure P-3).

Counsel for the petitioners submits that petitioner No.1 was married to the complainant-respondent No.2 on 18.10.2015. However, the relation between the parties turns sour and FIR (Annexure P-1) was lodged at the instance of the complainant-respondent No.2. He submits that dispute between the parties has been cordially settled by virtue of agreement deed dated 14.09.2016 (Annexure P-2) and a sum of Rs.7.50 lakh has been paid to the complainant-respondent No.2, in terms of the settlement. Still further, he submits that marriage between the parties has been dissolved by mutual consent, vide judgment dated 13.07.2017 (Annexure P-3). By drawing attention of the Court to the order dated 09.07.2021 (Annexure P-4), counsel for the petitioners submits that a cancellation report has been submitted by the Investigating Agency, under

Sections 323, 324, 498-A, 149, IPC and despite the fact that complainant-respondent No.2 agreed to the same, the trial Court did not accept the cancellation report and treated it as a challan as offence under Section 498-A, IPC is non-compoundable.

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab accepts notice on behalf of respondent No.1-State. He seeks and is granted time to get instructions. Mr.J.S.Lalli, Advocate has put in appearance on behalf of the complainant-respondent No.2. He has admitted the factum of compromise as well as the fact that alimony of Rs.7.50 lakh has been received by the complainant/respondent No.2.

The parties and Investigating Officer are directed to appear before the Duty Magistrate/Illaq Magistrate on 24.12.2021 or on any date thereafter, as fixed by the Magistrate for getting their statements recorded with regard to the compromise. The Duty Magistrate/Illaq Magistrate shall submit the report 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 14.02.2022.

In the meantime, State may file its reply.

Report has been received and its relevant extract is as under:-

“4. After going through the statement of the parties and on asking the parties, it is crystallized that the compromise has been arrived at genuinely and is made voluntarily and out of free will of the parties.

5. As per statement of Investigating Officer HC Karaj Singh, No.1021/FZR there are five accused persons namely 1. Rajinder Singh son of Surjit Singh, 2. Surjit Singh son of Bhag Singh, 3. Lakhwant Kaur alias Rakhwant Kaur wife of Surjit Singh, 4. Parinoor Kaur daughter of Surjit Singh, 5. Bhupinder Singh alias Lovepreet Singh son of Surjit Singh, all residents of Near Gurudwara Baba Batha Wala, Ward No.2, Near Green School, Makhu, Tehsil Zira, District

Ferozepur are involved in this case. No other case is pending against the above named accused persons.”

Short reply by way of affidavit of Deputy Superintendent of Police, Zira, District Ferozepur has been filed on behalf of respondent No.1-State, which is taken on record.

By referring to para 5 of the status report, State counsel submits that during investigation offence under Section 328 IPC was deleted vide DDR No.25 dated 28.09.2018.

Counsel representing complainant-respondent No.2 does not have any objection in case prayer made in the petition is acceded to.

Having considered the submissions made by the counsel for the parties and considering the fact that FIR Annexure P-1 is essentially a fallout of a matrimonial dispute which has been amicably settled and the parties have parted ways, this Court is of the opinion that setting aside the criminal proceedings would go a long way and enable the parties to lead a peaceful life.

Keeping in view the judgment of Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, instant petition is allowed. FIR No. 129 dated 03.09.2016 registered for offences under Sections 323, 324, 328, 498-A, 149 of the Indian Penal Code, 1860, at Police Station Zira, District Ferozepur Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

September 28, 2022

P.Bhatt