

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

135+290

CRM-M-49795 of 2021 (O&M)

Date of decision:12.10.2022

Gaganpreet Singh Sawhney

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abhinav Singla, Advocate for
Mr. Amit Goyal, Advocate
for the petitioner.

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

Mr. Satbir Mor, Advocate for
Mr. Rishav Soni, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.30688 of 2022

Application is allowed as prayed for.

Judgment dated 06.05.2022 passed under Section 13-B of
Hindu Marriage Act, 1955 is taken on record as Annexure A-1.

CRM-M-49795 of 2021

On 29.11.2021, this Court passed the following order:-

“Heard through video conferencing.

*The instant petition has been filed under Section 482 of
the Code of Criminal Procedure for quashing of FIR No.117
dated 15.11.2021, registered under Sections 406, 498-A of*

Indian Penal Code, 1860 at Police Station Women, District Police Commissionerate, Ludhiana, Punjab, Annexure P-1, on the basis of compromise deed, dated 17.11.2021, Annexure P-2, arrived at between the parties alongwith all subsequent proceedings arising therefrom.

Counsel for the petitioner submits that the petitioner is husband of complainant-respondent No.2, who has lodged the FIR, Annexure P1, on account of matrimonial discord between them. He submits that the dispute between the parties has been settled and a compromise dated 17.11.2021, Annexure P-2 has been arrived at between them. Counsel for the petitioner submits that a petition for divorce by mutual consent has been filed under Section 13-B of the Hindu Marriage Act, 1955 at Family Court, Ludhiana and Rs.10,50,000 i.e. half of the alimony amount stands paid to the complainant-respondent No.2 and the balance has to be paid at the time of recording of second motion on 26.04.2022. He submits that the petitioner has not been declared as a proclaimed offender.

Notice of motion.

On asking of the Court, Mr. K.S. Aulakh, DAG, Punjab, accepts notice on behalf of respondent No.1. Mr. Rishav Soni, Advocate has put in appearance on behalf of respondent No.2. He has admitted the factum of compromise between the parties.

The parties and the Investigating Officer are directed to

appear before the Illaqa Magistrate/trial Court on 22.02.2022 or on any date within a fortnight 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 09.05.2022.”

By inviting attention of the Court to the judgment, Annexure A-1, counsel for the petitioner submits that marriage has been dissolved by mutual consent and the balance permanent alimony has been paid to the complainant-respondent No.2.

Counsel representing the complainant-respondent No.2 has admitted the receipt of entire permanent alimony of Rs.21.00 lacs and submits that he does not have any objection in case the prayer made in the petition is acceded to.

Upon instructions from ASI Suresh Kumar, State counsel submits that matter is under investigation.

Heard counsel for the parties.

Pursuant to above reproduced order, report has been received from the Trial Court and its relevant extract is as under:-

“1. It is respectfully submitted that as per the statement of Investigating Officer and report of the concerned Ahlmad, only petitioner/accused Gaganpreet Singh Sahwney is arraigned in the present FIR and he has not been absconding/PO in this case nor any criminal case is pending against him.

2. Further, the name of the complainant/aggrieved is Amanjot Kaur i.e. Respondent No.2, who has appeared and made her statement in support of the compromise.

3. In the present case, only FIR has been produced.

4. So, from the statements of the parties, it appears to the Court that the parties have been (sic) compromised the matter out of their free Will, voluntarily, without any sort of pressure, coercion and fear.”

It is evident that FIR (Annexure P-1) is a result of a marital discord, which has been amicably settled, entire permanent alimony amount

has been paid and the marriage has been dissolved. Parties have decided to bury the hatch and lead a peaceful life.

In view of the above facts, report of the Trial Court, binding judgments of Supreme Court in **B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888** and **Narinder Singh Versus State of Punjab (2014) 6 SCC 466**, this Court is of the opinion that keeping the criminal proceedings alive would be a futile exercise.

Accordingly, petition is allowed. FIR No.117 dated 15.11.2021, registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Police Commissionerate, Ludhiana, Punjab, (Annexure P-1), alongwith all other proceedings arising therefrom, are quashed qua the petitioner.

October 12, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes