

CRM-M-49829 of 2021 (O&M)

{1}

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

135+289

CRM-M-49829 of 2021 (O&M)

Date of decision:18.07.2022

Ajay Saini

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gourav Jain, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. S.N.Pillania, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.24325 of 2022

Application is allowed as prayed for.

Xerox copies of two re-validated demand drafts bearing
Nos.513750 dated 20.12.2021 and 513810 dated 25.02.2022 of Rs.10.00
lacs each, are taken on record as Annexure P-4.

CRM-M-49829 of 2021

Instant petition has been filed under Section 482 Cr.P.C.,
seeking quashing of FIR No.99 dated 13.10.2020 registered under Sections
323, 34, 406, 498-A of Indian Penal Code, 1860 (however challan/final

report dated 01.11.2020 has been filed under Sections 323, 406, 498-A IPC) at Police Station, Women West Gurugram, District Gurugram (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise deed dated 17.09.2021 (Annexure P-2).

Counsel for the petitioner submits that marriage of petitioner was solemnized with the complainant-respondent No.2 on 21.01.2015 and a daughter was born out of the wedlock in May, 2016. He submits that the parties could not adjust with each other and have been residing separately. He submits that the matrimonial dispute has been settled by compromise deed (Annexure P-2) and a petition seeking divorce by mutual consent has been instituted at Family Court, Haridwar. By referring to para 8 of the compromise deed (Annexure P-2), counsel for the petitioner submits that out of the agreed amount of Rs.51.50 lacs to be paid as permanent alimony, Rs.31.50 lacs has been paid and the balance amount of Rs.20.00 lacs will be paid at the time of recording of second motion before the Family Court.

Upon instructions from L/ASI/Renu and on the basis of reply filed by way of an affidavit of Assistant Commissioner of Police, Crime Against Women, Gurugram, which is taken on record, State counsel submits that final report under Section 173 Cr.P.C., has been presented, but the charge has not been framed.

Counsel for the complainant-respondent No.2 has admitted the factum of compromise and does not oppose the prayer made in the petition. Rather submission has been made that second motion is not being recorded before the Family Court due to pendency of the instant petition.

Heard counsel for the parties.

Vide order dated 29.11.2021, this Court directed the parties to appear before the Area Magistrate/Trial Court to get their statements recorded in support of the compromise and a report was called for on the following points:-

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

- “i) One accused Ajay Saini has appeared before the Court and made statement. No accused is absconding in this case.*
- ii) The complainant is Ms. Parveen Saini and she has also appeared and suffered her statement in support of compromise.*
- iii) The trial is at the stage of framing of charge.*
- iv) The compromise is genuine, voluntary and out of free will of the parties.*

v) *No other criminal case is pending against the accused.”*

It is apparent that FIR, Annexure P-1, is an outcome of matrimonial dispute, which has been settled and a petition seeking divorce by mutual consent has been instituted.

In the above background as well as judgments of the Supreme Court in **B.S.Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675** and **Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322**, this Court is of the view that as the parties have decided to bury the hatchet, continuation of criminal proceedings would not serve any purpose.

Accordingly, the petition is allowed. FIR No.99 dated 13.10.2020 registered under Sections 323, 34, 406, 498-A of Indian Penal Code, 1860 (however challan/final report dated 01.11.2020 has been filed under Sections 323, 406, 498-A IPC) at Police Station, Women West Gurugram, District Gurugram (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed qua the petitioner.

July 18, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>