

CRM-M-50037-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(242)

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Date of Decision:-27.05.2022.

Parveen Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Punit Malik, Advocate for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Manish Dhankhar, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.210 dated 02.10.2016 registered under Sections 498-A, 406, 506 and 34 IPC at Women Police Station, Gurugram, on the basis of compromise.

On 22.02.2022, the following order was passed:-

"CRM-5718-2022"

Learned counsel for the applicant/respondent No.2 seeks preponement of the case as the main case has been adjourned to 29.09.2022. It has been stated that matrimonial dispute has been amicably settled between the parties.

Notice in the application.

Mr. Punit Malik, Advocate has accepted the notice on behalf of the non-applicant-petitioner and Mr. Zorawar Singh

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Chauhan, DAG Haryana joins proceedings on behalf of State and have stated that they have no objection to the prayer.

In view of the above and by recording a no objection from the counsels opposite, the date in the main petition is preponed and the same is taken up on Board today itself.

Application is disposed of.

Main case

The petitioner is seeking to quash FIR No. 210 dated 02.10.2016, under Sections 498-A/406/506/34 IPC, 1860, registered at Women Police Station, Gurugram on the basis of compromise.

It has been stated by learned counsel for the petitioner that matrimonial dispute has been amicably settled between the parties. The petitioner and respondent No.2 have already instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent wherein the statements of the parties at the stage of first motion have been recorded.

Learned counsel for respondent No.2 has acknowledged the fact of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 15.03.2022 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information:

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1. *Number of persons arrayed as accused in FIR.*
2. *Whether any accused is proclaimed offender.*
3. *Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
4. *Whether the accused persons are involved in any other case or not.*
5. *The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

To await the report, adjourned to 17.05.2022.”

Pursuant to the aforesaid order, report from JMIC, Gurugram dated 12.04.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In view of the statements of the interested parties. I am satisfied that, they have compromised the matter amongst themselves without any fear or pressure and that the compromise has been voluntarily arrived at between them. Statement of compromise before this court has only been made by complainant Samoti and accused Parveen (against whom challan was filed by the police) and by no other. Also this court was directed to report as to whether the accused is proclaimed offender and whether there is any other case pending against him. On which **report of IO** was sought. Wherein, it is submitted that the **accused is not proclaimed offender in the said case.** Statement of Investigating Officer is recorded **wherein she has stated that no other case is pending against him in any court.**

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Case is fixed at the stage of recording prosecution evidence.

*Statements of the interested parties as well as report of IO in original and the report of the undersigned be sent to the Hon'ble High Court. The statements and report be also sent to the Hon'ble High Court through Email/FAX immediately before **the next date of hearing before the Hon'ble High Court i.e. 17.05.2022.** Copies of the statements of the parties and the report be also retained on the file for record purposes. Statements of the interested parties in original is enclosed herewith.*

Mr. Munish Dhankar, Advocate appears for respondent No.2, admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 498-A of the IPC is non compoundable.

In response thereto, learned counsel for the petitioners relies upon the judgment passed by the Supreme Court in ***Criminal Appeal No.1489 of 2012, titled as 'Ramgopal and another vs. The State of Madhya Pradesh'***. The relevant portion of which reads as under;-

“11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of

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‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, present petition is allowed and FIR No.210 dated 02.10.2016 registered under Sections 498-A, 406, 506 and 34 IPC at Women Police Station, Gurugram, and all proceedings arising therefrom are hereby quashed.

(PANKAJ JAIN)
JUDGE

May 27, 2022.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No