

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

277+137

CRM-M-51838-2021 (O & M)
Date of decision: 10.08.2022

Nitish Kumar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Saransh Sabharwal, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Pankaj Bains, Advocate for
Mr. Shashank Vardaan Sharma, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-28755-2022

Application is allowed as prayed for.

Judgment and decree of divorce dated 07.03.2022 passed under
Section 13-B of the Hindu Marriage Act, 1955 is taken on record as
Annexure P-4.

Main Case

Instant petition has been filed under Section 482 of Cr.P.C. for
quashing of FIR No.414 dated 29.08.2018 under Sections 498-A, 323
and 406 of IPC, 1860, registered at Police Station Sector-5, Panchkula,
Annexure P-1, alongwith all subsequent proceedings arising therefrom,
on the basis of compromise dated 15.11.2021, Annexure P-2, arrived at
between the parties.

Counsel for the petitioner submits that marriage of petitioner was solemnized with complainant/respondent No.2 on 12.12.2016 and there is no issue out of the wedlock. He submits that due to temperamental differences, they could not pull along and have been living separately since June, 2017. He submits that due to discord, multifarious litigation were lodged by the parties against each other, however, all the disputes have not been settled by virtue of compromise, Annexure P-2. He submits that in terms of the compromise, petitioner has paid a sum of Rs.15.90 lac to complainant/respondent No.2 and all the pending cases have been withdrawn. Still further, counsel submits that the petitioner was involved in another criminal case bearing FIR No.146 dated 17.02.2020 lodged for offences under Sections 323, 452 and 506 of IPC at Police Station Sector-5, Panchkula, which has been quashed on the basis of compromise vide order dated 18.02.2022 passed by this Court in CRM-M-51787-2021.

Upon instructions from ASI Desh Raj, State counsel submits that charge has been framed against the accused-petitioner, but no witness has been examined.

Counsel for complainant/respondent No.2 has admitted the factum of compromise as well as divorce. He has affirmed the fact that the complainant has received the entire permanent alimony.

Heard counsel for the parties.

Vide order dated 13.12.2021, this Court directed the parties as well as Investigating Officer to appear before the Trial Court/Illaqha Magistrate and to get their statements recorded in support of the

compromise and a report was called for on the following counts:-

- “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 reproduced as under:-

- “1. As per statement of parties present and the challan and the report of Investigating Officer, there is only one accused facing trial in this case and he has suffered his statement. With regard to the point as to whether the accused has been declared proclaimed offender, it is submitted that the facts and circumstances of the present case and the report of investigating officer signify that he has not been declared Proclaimed Person or Proclaimed Offender by any court of law in any other case.*
- 2. With regard to the point as to whether all the complainant have appeared and made their statements, it is submitted that there is only one complainant in the present case whose name is Neha Khosla and she has appeared and suffered her statement with regard to the compromise.*
- 3. With regard to the stage of trial/proceedings it is submitted that the case is at the stage of prosecution evidence.*
- 4. This court is convinced that the compromise between the complainant and the accused is genuine and voluntary as it is not the result of any undue influence or pressure in any manner and out of their free will. The complainant and the accused have maintained uniformity in regard to the validity of compromise.*
- 5. With regard to the point as to whether any other criminal case is pending against the*

accused, it is submitted that as per the report of Investigating Officer the accused has another criminal case bearing FIR No. 146 dated 17.2.2020 registered at P.S. Sector-5, Panchkula against him besides the present case.”

It is evident that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been settled and marriage has been dissolved. In view of the above development, report of the trial court and judgments of the Supreme Court in ***B.S. Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888*** and ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court is of the view that continuation of the criminal proceedings will not serve any purpose rather setting them aside will enable the parties to lead a peaceful life.

Accordingly, petition is allowed. FIR No.414 dated 29.08.2018 under Sections 498-A, 323 and 406 of IPC, 1860, registered at Police Station Sector-5, Panchkula, Annexure P-1, and all subsequent proceedings arising therefrom, are quashed qua the petitioner.

10.08.2022
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(SUVIR SEHGAL)
JUDGE

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