

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129+280

CRM-M-51167of 2021 (O&M)

Date of decision:-15.09.2022

Sonu Dhiman

...Petitioner

Versus

State of Union Territory, Chandigarh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanjay Kaul, Advocate
for the petitioner.

Mr. Dushyant Rana, Advocate for
Mr. Sumit Jain, Addl.P.P., U.T.Chandigarh.

Ms. Seema Pasricha, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.34831 of 2022

Application is allowed as prayed for.

Judgment and decree dated 11.04.2022 passed under Section
13-B of the Hindu Marriage Act, 1955 is taken on record as Annexure R-1.

CRM-M-51167 of 2021

Instant petition has been filed under Section 482 of the Code of
Criminal Procedure, 1973 for quashing of FIR No.01 dated 01.01.2019,
registered for offences under Sections 406, 498-A of Indian Penal Code,
1860, at Women Police Station, Sector 17, Chandigarh (Annexure P-2), on
the basis of compromise as is apparent from the petition filed under Section
13-B of Hindu Marriage Act, 1955 (Annexure P-3).

Counsel for the petitioner submits that marriage of the petitioner was solemnized with the complainant-respondent No.2 on 20.04.2008 at Chandigarh and a son was born out of the wedlock. Counsel submits that FIR (Annexure P-2), has been registered on account of a marital discord between the parties, who have been living separately since September, 2017. As per the counsel, matrimonial dispute has been settled as is reflected from the petition filed under Section 13-B of the Hindu Marriage Act, 1955, (Annexure P-3) and amount of Rs.1.00 lakh by way of permanent alimony has been paid to the complainant-respondent No.2. By referring to the judgment and decree, Annexure R-1, counsel submits that marriage has been dissolved by mutual consent and custody of the minor child is with the complainant-respondent No.2.

Upon instructions received from ASI Padam Singh, counsel appearing on behalf of Additional Public Prosecutor, U.T.Chandigarh submits that although charge has been framed, but no prosecution witness has been examined.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise and does not dispute the statement made by the counsel for the petitioner.

Heard counsel for the parties.

Vide order dated 14.03.2022, this Court directed the parties as well as Investigating Officer to appear before the Trial Court/Area Magistrate for recording of their statements with regard to 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 from the Trial Court and its relevant extract is as under:-

“1. There is one accused person in the present FIR and he has physically appeared before the Court and suffered statement, there is no PO in the present case.

2. The name of the complainant is Komal Dhiman, She is the only injured/aggrieved. She may (sic made) her statement regarding compromise.

3. The case is at the stage of prosecution evidence.

4. This Court, after hearing the parties in persons alongwith counsel of accused and after going through the statements recorded in the Court, is of the opinion that the compromise effected between the parties seems to be genuine. They have compromised the matter voluntarily and without any coercion or undue influence and statements given by the complainant as

well as accused was not the result of any pressure or coercion.

5. None of the accused person is involved in any other FIR/case.”

It is evident from the above that FIR (Annexure P-2), is a fallout outcome of matrimonial dispute, which has been amicably settled and marriage has been dissolved.

Keeping in view the above development, report of the Trial Court and the judgments of 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 opinion that continuation of criminal proceedings would be an exercise in futility.

Accordingly, the petition is allowed. FIR No.01 dated 01.01.2019, registered for offences under Sections 406, 498-A of Indian Penal Code, 1860, at Women Police Station, Sector 17, Chandigarh (Annexure P-2), is quashed qua the petitioner.

September 15, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes