

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(129+298)

CRM-M-54258-2021 (O&M)

Date of Decision:- 27.09.2022

Umesh Kumar Pahwa and another

..Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ankush Rampal, Advocate for the petitioners.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab
for State-respondent No.1.

Mr. Rahul Sharma, Advocate for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-33825-2022

Application is allowed as prayed for.

Judgment and decree dated 09.05.2022 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 Cr.P.C. seeking quashing of FIR No.100 dated 11.09.2016 registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 06.10.2021 (Annexure P-2) arrived at between the parties.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the father-in-law of respondent No.2. He

submits that marriage of petitioner No.1 was solemnized with respondent No.2 on 23.09.2007 and a daughter was born out of the wedlock. Counsel submits that due to incompatibility, marriage did not work, resulting in spate of litigation *inter se* parties. Counsel submits that FIR , Annexure P-1, has been lodged by father of respondent No.2, who has unfortunately expired. According to the counsel, dispute has been settled by virtue of compromise, Annexure P-2, marriage has ended in a divorce by mutual consent vide judgment and decree dated 09.05.2022, Annexure P-4, and the entire permanent alimony of Rs.75 lacs has been paid. Still further, he submits that in terms of the compromise, custody of the child is with respondent No.2.

Upon instructions received from ASI, Roop S. Bhangu, State counsel submits that prosecution evidence is being recorded. He further submits that recovered articles have not been claimed by respondent No.2.

Counsel representing respondent No.2 does not have any objection in case the criminal proceedings are quashed. He further submits that the *Istridhan* of respondent No.2, which has been recovered from the petitioner, are lying at the police station.

Heard counsel for the parties.

Vide order dated 17.05.2022, this Court directed the parties 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 aspects:-

“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 pursuant to the above reproduced order and its relevant extract is as under:-

“Challan in this case has already been presented. I have gone through the statements given by the parties and passed (sic posed) various questions to know whether any compromise has been effected between the parties. The undersigned is satisfied that compromise between Victim Mehak Sharma @ Mehak Pahwa and petitioners namely Umesh Pahwa son of Yashpal Pahwa and Yashpal Pahwa son of Late Sh. Ram Dass has been effected is without any pressure or coercion. The sole purpose of the parties for effecting compromise between them is their desire to live in peace and harmony. As directed vide order dated 17.05.2022, the report is submitted as under:-

- 1. There are two accused persons namely Umesh Pahwa son of Yashpal Pahwa and Yashpal Pahwa son of Late Sh. Ram Dass arrayed in the FIR and no accused has been declared PO in this case.*
- 2. There is one complainant namely Brij Mohan Sharma. He had died. Mehak Sharma @ Mehak Pahwa is the victim of present case.*
- 3. The case was fixed for prosecution evidence.*
- 4. The compromise is genuine, Voluntary and without any coercion or undue influence.*
- 5. No other criminal case is pending against the accused persons as per the statement of ASI Davinderpal Singh.”*

It is apparent that the dispute had arisen out of a marital discord, which has been settled and marriage has been dissolved.

Keeping in view the above development, report of the Trial Court and the judgments of Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court has no hesitation in quashing the criminal proceedings.

Accordingly, the petition is allowed. FIR No.100 dated 11.09.2016 registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Ludhiana, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

The *Istridhan* articles of respondent No.2 are ordered to be returned to her within a fortnight from today.

(SUVIR SEHGAL)
JUDGE

27.09.2022
Kamal

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