

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

267+121

CRM-M-157-2022 (O & M)

Date of decision:03.08.2022

Archit Doda

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Neeraj Madaan, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Sandeep Sharma, Advocate for
Mr. Varun Sharma, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-26777-2022

Allowed as prayed for.

Judgment and decree dated 02.04.2022 passed under Section
13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure
P-5.

Main Case

On 06.01.2022, this Court passed the following order:-

“Heard through video conferencing.

*Instant petition has been filed under
Section 482 of the Code of Criminal Procedure,
1973 seeking quashing of FIR No.148 dated
18.09.2019 registered for offence under Sections
406 and 498-A of the Indian Penal Code, 1860 at
Police Station City Fazilka, District Fazilka,
Annexure P-1, along with all subsequent
proceedings arising therefrom, on the basis of*

compromise dated 26.10.2021, Annexure P-2.

Counsel for the petitioner submits that the petitioner was married to the complainant-respondent No.2 on 19.02.2018 and there is no issue out of the wedlock. He submits that FIR, Annexure P-1, came to be registered on account of marital discord between the parties and dispute between them has been settled by virtue of compromise, Annexure P-2, arrived at before the Mediation and Conciliation Centre, Fazilka. He submits that the petitioner has complied with the terms of the compromise and a petition under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of the marriage by mutual consent has been instituted, first motion has been recorded and the second motion is to be recorded before the Family Court on 25.01.2022. By referring to para 9 of the petition, he submits that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. Saurav Khurana, DAG, Punjab accepts notice on behalf of respondent No.1-State. As per instructions received from, ASI, Jaswinder Singh, he submits that the matter is pending for investigation. Mr. Varun Sharma, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2. He has admitted the factum of compromise between the parties as well as the submission made by counsel for the petitioner.

The parties and the Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 25.01.2022 or on any date within a period of one month thereafter as fixed by the trial Court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing specifying the following:-

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 of the Illaqa Magistrate/trial Court be awaited for 08.03.2022.”

By referring to the judgment and decree, Annexure P-5, counsel for the petitioner submits that marriage has been dissolved and all claims *inter se* parties have been settled.

Heard counsel for the parties.

Pursuant to order dated 06.01.2022, report has been received from the trial court and its relevant extract is reproduced as under:-

“ 1. There is only one accused namely Archit Doda who is arraigned in the present FIR who has appeared before the undersigned and has got recorded his statement. He is not absconding/PO in this case.

2. The name of the complainant is Sheenu Bala and there is only one complainant/injured/aggrieved person and she has also appeared and made her statement in support of compromise.

3. As per record and statement of Investigating Officer, the case is still under investigation.

4. As per the statements of the parties, compromise effected between them appears to be genuine, voluntary and without any coercion or undue influence.

5. As per statement of Investigating Officer, no other criminal case is pending against the accused.”

FIR, Annexure P-1, is a fallout of a marital discord, which has been settled and the parties have decided to give a quietus to the dispute. In view of this development, report of the trial court and the 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 criminal proceedings would be an exercise in futility. This is, therefore, a fit case for exercising powers under Section 482 of the Code to serve the ends of justice.

Accordingly, petition is allowed. FIR No.148 dated 18.09.2019 registered for offence under Sections 406 and 498-A of the Indian Penal Code, 1860 at Police Station City Fazilka, District Fazilka, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioner.

03.08.2022
sheetal

(SUVIR SEHGAL)
JUDGE

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