

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

252+118

CRM-M-54705-2019 (O & M)

Date of decision:19.04.2022

Shiv Kumar Bhardwaj and others

... Petitioners

Vs.

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Aditya Sanghi, Advocate  
for the petitioners.

Mr. Karan Sharma, DAG, Haryana.

Meenu Kaushik, complainant/respondent No.2-in-person.

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**SUVIR SEHGAL J. (ORAL)**

**CRM-13955-2022**

Allowed as prayed for.

Judgment and decree of divorce dated 25.08.2020 passed under Section 13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure P-5.

**Main Case**

Instant petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No.731 dated 09.11.2016 under Sections 498-A, 406 and 506 of IPC, 1860, (Sections 323, 313 and 34 of IPC were added later on), registered at Police Station Hisar Civil Lines, District Hisar, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise/settlement dated 16.10.2019, Annexure P-3.

Counsel for the petitioners submits that petitioners No.1 and 2 are the in-laws and petitioner No.3 is the husband of the complainant/respondent No.2. He submits that marriage of petitioner No.3 was solemnized with the complainant/respondent No.2 on 15.02.2015 and no child was born out of the

wedlock. He submits that due to temperamental differences, the parties could not cohabit together and have been living separately since 16.08.2016. He submits that the matrimonial dispute between the parties has been settled by virtue of compromise/settlement, Annexure P-3, arrived at before the Mediation and Conciliation Centre of this Court. According to the counsel, in terms of the settlement, the marriage has been dissolved by virtue of judgment and decree, Annexure P-5. He submits that in terms of the settlement, petitioner No.3 was required to pay a sum of Rs.16.50 lakhs as permanent alimony, out of which Rs.11 lakhs was paid during the pendency of the divorce petition and the balance amount of Rs.5.50 lakhs is being paid by way of Demand Draft bearing No.150059 dated 06.04.2022 drawn on State Bank of India, a photocopy of which has been retained on the record. Counsel for the petitioners has contended that though offence under Section 313, IPC, has been added in the FIR, but there is no allegation of miscarriage on account of any injury inflicted by the petitioners. He has made a reference to the medical opinion, which is reproduced as under:-

*“As per record USG done on 1-05-2015 with report of missed abortion of 9.3 week and pt. got admitted on 21-05-2018 at 1.50 AM. To eat well given to the same. As per record, no external mark of injury present. The case of missed abortion due to trauma can't be ruled out but there are multiple caused/reasons for missed abortion. Sd/- 07-04-2017 11.06 AM M.O. GH HISAR.”*

Still further, he submits that the complainant/respondent No.2 has re-married and has a child from the second marriage.

Upon instructions from ASI Madan Lal, State counsel submits that although there were 04 persons named as accused in the FIR, but on conclusion of investigation, *challan* has been presented against 03 accused, who are petitioners before this Court. As per his instructions, charge has been framed in February, 2019 and no prosecution witness has been examined. He has specific instructions to state that offence under Section 313 of IPC was added during

the course of investigation.

Complainant/respondent No.2, who is present in-person and has filed a self attested xerox copy of her Aadhar Card as well as that of her uncle, who has accompanied her and has submitted that she does not oppose the prayer made in the petition.

Heard counsel for the parties.

Vide order dated 24.01.2020, this Court directed the parties to appear before the Area Magistrate/Trial Court to get their statements recorded regarding the compromise and a report was called for regarding the genuineness of the compromise and also as to whether any party has been declared as a Proclaimed Offender. Report has been received and relevant extract of which is reproduced as under:-

*“The Investigating Officer Retired SI Raj Rani, No.276/HSR suffered statement to the effect that no accused has been declared proclaimed offender/proclaimed person in this case.*

*In view of the statements of parties as well as statement of Investigating Officer, the said compromise effected between the parties appears to be genuine, without any pressure or undue influence and that the accused have not been declared proclaimed offender. Also certain terms and conditions are yet to be fulfilled which accused has undertaken to fulfill as per compromise before Hon'ble High Court.”*

The original Demand Draft of Rs.5.50 lakhs has been handing over to the complainant/respondent No.2 by the counsel for the petitioners. Therefore, all the terms and conditions of the compromise are fulfilled.

It is evident that FIR, Annexure P-1, has emanated due to marital dispute, which has been settled and marriage of the parties has been dissolved by mutual consent. Complainant/respondent No.2 has re-married. Insofar as allegations under Section 313 of IPC are concerned, even the medical opinion is not definite. A Co-ordinate Bench of this Court in CRM-38699-M-2007 titled as **Surinder Singh versus State of Punjab 2008 (6) RCR (Criminal) 864** has held as under:-

“4. Ordinarily in matrimonial disputes, FIR is quashed on the basis of compromise. In the instant case, however, serious offences under Sections 313 and 316 I.P.C. are involved. Learned counsel for the petitioners, however, placed reliance on Raj Kumar Tully & others v. State of Punjab & others 2004 (4) RCR (Criminal) 213, wherein FIR under Section 313 I.P.C., besides other offences, was also quashed on the basis of the compromise. However, in that case, the complainant and her husband had started residing together in pursuance of the compromise whereas in the instant case, the complainant and her husband have separated by a decree of divorce in pursuance of compromise. Learned counsel for respondent No.2, however, states that if the FIR is not quashed, respondent No.2 would not be able to get the remaining amount of Rs.11 lacs which has been paid today by way of three bank drafts by the petitioners and in this manner, complainant would suffer great prejudice.”

Keeping in view the judgments of the Supreme Court in ***Madan Mohan Abbot versus State of Punjab (2008) 4 SCC 582; Narinder Singh Versus State of Punjab (2014) 6 SCC 466*** and ***Parbatbhai Aahir alias Parbatbhai Bhimsinghbhai Karmur and others Versus State of Gujrat and another (2017) 9 SCC 641***, this Court is of the opinion that prolonging of the criminal proceedings would be an exercise in futility and the ends of justice would be met in case the penal proceedings are quashed.

Accordingly, petition is allowed. FIR No.731 dated 09.11.2016 under Sections 498-A, 406 and 506 of IPC, 1860, (Sections 323, 313 and 34 of IPC were added later on), registered at Police Station Hisar Civil Lines, District Hisar, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

19.04.2022

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(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |