

**118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

[CRM-M-5692-2019](#)

Date of decision: 18.04.2023

Ashutosh Parashar and othersPetitioners

versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ravinder Bawa, Advocate for
Mr. Vivek Khatri, Advocate
for the petitioners.

Ms. Trishanjali Sharma, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Section 482 Cr.P.C. are seeking quashing of FIR No.974 dated 06.11.2017 under Sections 354/376/377/406/498-A/506/120-B of IPC registered at Police Station Sector 7, Faridabad, District Faridabad (Annexure P-1) on the basis of compromise and joint statement recorded by Additional Principal Judge (Family Court) in the order dated 16.11.2018 (Annexure P-3).

2. The brief facts of the case are that petitioner No.1 solemnized marriage with respondent No.2 on 22.02.2015. The marriage was solemnized according to Hindu rites and ceremonies. On account of temperamental issues, the couple could not enjoy the fruits of institution of marriage. The respondent No.2 lodged impugned FIR against the petitioners who filed CRM-M-44810-2017 before this Court seeking quashing of FIR. The petition was disposed of on account of compromise arrived at between the parties. The petitioner No.1 and respondent No.2 filed petition under Section 13-B of the Hindu Marriage

Act before Family Court seeking divorce by mutual consent. Additional Principal Judge, Family Court, Faridabad vide decree dated 16.11.2018 ordered to dissolve marriage of petitioner No.1 and respondent No.2. Despite payment of agreed amount, the respondent No.2 did not come forward for getting FIR quashed on the basis of compromise.

3. Despite repeated notices, there is no representation of respondent No.2 and matter is pending since 2019 thus, this Court is left with no other option except to adjudicate the matter with the assistance of learned State counsel.

4. I have scrutinized the record and heard arguments of both sides.

5. This Court on 26.04.2018 in CRM-M-44810-2017 passed following order:-

“This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 974 dated 06.11.2017, registered under Sections 354, 376, 377, 406, 498-A, 506 and 120-B of the Indian Penal Code at Police Station Sector 7, Faridabad and all subsequent proceedings arising therefrom.

Counsel for the petitioners contends that in fact the matter has been compromised between the parties and in terms of the said compromise, a petition under Section 13-B of the Hindu Marriage Act had been filed. Part payment of Rs.8 Lakh had already been made to the complainant herein, however, she did not give a statement on the second motion petition.

Appearance has been caused on behalf of the complainant who submits that in case a sum of Rs.8 Lakh is paid to the complainant being the balance amount of Rs.16 Lakh as settled in the compromise arrived at, she would be ready to sign the petition under Section 13-B of the Hindu Marriage Act.

Counsel for the petitioner submits that a demand draft of Rs.8 Lakh has already been got prepared. The same has been brought in Court today and will be handed over to the complainant in terms of the compromise. A copy of the said demand draft is retained on case file.

Since the matter already stands settled amicably, let a petition under Section 13-B of the Hindu Marriage Act be filed along with an application seeking waiver of the statutory period enshrined under Section 13-B(2) of the said Act in terms of the judgment rendered by the Apex Court in Amardeep Singh vs. Harveen Kaur, (2017) 8 Supreme Court Cases 746. The Family Court may consider the same in view of the fact that admittedly the parties are already residing separately for almost two years.

The parties are directed to appear before the Family Court, Faridabad on 09.05.2018. On filing of the said petition under Section 13-B of the Hindu Marriage Act and a statement being made by the complainant, let the amount of Rs.8 Lakh be handed over to her by way of

the said demand draft, failing which, she is at liberty not to make the statement.

Adjourned to 09.07.2018.

Interim order to continue.”

6. The Family Court while passing decree of divorce dated 16.11.2018 passed the following order:-

“3. I have perused the record and heard the parties. It is established from the statements of the petitioners recorded on two dates fortified by affidavits given by them that marriage between them was solemnized on 22.2.2015 and they could not pull on together as husband and wife for long due to their temperamental differences. Since 26.1.2016 the petitioners have been living separately from each other. According to the petitioners, they have amicably settled their claims of *Istridhan*, and maintenance etc. in the manner stated by them. Nothing remains due against either of the parties. There seems to be no chances of the parties living together as husband and wife any more as they have reached the point of no return, so the parties have chosen to part their ways out of their own free will and choice. Parties will be bound by their statements.”

7. This Court while disposing of CRM-M-44810-2017 passed order dated 27.02.2019 as follows:-

“In the light of stand of the two sides that since the parties have effected a compromise the present petition has been rendered infructuous and thus, the same stands dismissed as such.

However, proceedings before the trial Court are hereby stayed till final effect is given to the compromise.”

8. From the perusal of above quoted orders, it is quite evident that respondent No.2 had made a statement before Family Court that petitioner No.1 and respondent No.2 could not pull on together as husband-wife on account of temperamental differences and they are staying separate since 26.01.2016. The matter was amicably settled between the parties and they have chosen to part their ways out of their free will and choice. The respondent No.2 despite getting divorce by mutual consent is not coming forward to support case of the petitioners.

9. In view of above stated facts and circumstances, the present petition deserves to be allowed and accordingly allowed.

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FIR No.974 dated 06.11.2017 under Sections 354/376/377/406/498-A/506/120-B of IPC registered at Police Station Sector 7, Faridabad, District Faridabad (Annexure P-1) and all other consequential proceedings arising therefrom are quashed *qua* petitioner(s).

18.04.2023
Neha

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No