

CRM-M-19831 of 2023

2023 : PHHC : 073296

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In the High Court of Punjab and Haryana at Chandigarh

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2023 : PHHC : 073296

CRM-M-19831 of 2023

Date of Decision: 19.05.2023

Vipin Sharma

---Petitioner

versus

State of Haryana and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. H.S.Dhillon Advocate
for the petitioner

Ms. Dimple Jain, DAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No. 327 dated 22.07.2019 registered at Police Station Baldev Nagar, District Ambala, under Sections 323, 34, 406, 498-A and 506 of IPC and all consequential proceedings arising therefrom.

2. The brief facts of the case are that petitioner solemnised marriage with respondent No. 2 on 19.11.2018 according to Hindu rites and ceremonies. One child was born from this wedlock. The couple on account of temperamental issues, could not pull on their marriage and respondent No. 2 left company of the petitioner, Respondent No. 2 lodged aforesaid FIR against the petitioner. The

police after completing investigation filed challan and during pendency of trial arising out of aforesaid FIR, parties amicably settled their grievances. The petitioner and respondent No. 2 filed petition under Section 13-B of Hindu Marriage Act, 1955 seeking divorce by mutual consent before Family Court. The divorce petition came up for consideration before Principal Judge, Family Court, Ambala, who vide decree dated 29.10.2021 ordered to recall marriage of the petitioner and respondent No. 2. Respondent No. 2 at the time of second motion appeared before Family Court and made her statement disclosing that she has settled all grievances with petitioner. The decree of divorce came to be passed, however, respondent No. 2 is not ready to get FIR quashed. The respondent No. 2 has performed second marriage.

3. Learned counsel for the petitioner inter alia contends that the petitioner solemnised marriage with respondent No.2. On account of temperamental issues, the couple could not pull on their marriage and they decided to part their ways. The petitioner and respondent No.2 filed a petition under Section 13-B of Hindu Marriage Act seeking divorce by mutual consent. The Principal Judge, Family Court after recording joint statement vide decree dated 29.10.2021 dissolved the marriage of petitioner with respondent No.2. In terms of compromise arrived at between the parties, the respondent No.2 was supposed to come forward and make statement for getting impugned FIR quashed, however, respondent No.2 after getting divorce by mutual consent is not coming forward. The respondent No.2 has solemnised 2nd marriage and petitioner is facing trial.

4. Learned State counsel does not dispute the aforesaid factual position and submits that trial is still pending against the petitioner.

5. Despite service, there is no representation of respondent No. 2. It appears that respondent No. 2 after getting decree of divorce has either lost her interest to pursue the matter or she has resiled from her words.

6. Statement of parties recorded at the time of first motion before Family Court reads as:-

“We were married according to Hindu rites and ceremonies on 19.11.2018 at Orion Palace, Ambala. After the marriage we resided together as husband and wife and cohabited as such and one female child namely Amaira was born on 07.08.2019, who shall remain under the care and custody of her mother i.e. petitioner No. 1.

Due to temperamental differences, we could not adjust with each other and have been residing separately from each other since April, 2019.

We have settled all our disputes according to which nothing of any kind is due towards each other. We shall abide by above statement and contents of the petition.

We have been living separately with

our own free will and consent; that we have not filed other similar petition pending adjudication or finally decided on merits by any court of law; that we have made out statement with our own free will and consent and without there been any undue pressure, or coercion, or collusion, or undue influence from any quarter and from each other or misrepresentation or mistake of both of law and facts, whatsoever. There are no chances of our reunion. Our marriage may be dissolved by a decree of mutual consent.”

7. The relevant extracts of decree of divorce read as:-

“From the record, it is made out that the marriage between the parties could not work out, due to temperamental differences and since April, 2019, they have been residing separately from each other and have withdrawn from the society and company of each other. They have also mutually and amicably settled the dispute and decided to part their ways and go for divorce by mutual consent. Perusal of statements of parties show that nothing of any kind is due towards each other.”

8. From the perusal of above quoted paragraph extracted from decree of divorce, it is quite evident that respondent No. 2 appeared before the Family Court at the time of second motion and

categorically stated that she has settled her all disputes with petitioner.

9. In view of statements recorded by Family Court, it is quite evident that matter has been amicably settled and marriage stands dissolved. The respondent either has lost her interest to pursue the matter or she is resiling from her words. The respondent has solemnized second marriage. The petitioner cannot be left in lurch. It is well known fact FIR in matrimonial matters are mechanically lodged and thereafter matters are settled.

10. In view of findings recorded by Family Court, there seems no reason to continue trial against the petition. The present petition deserves to be allowed and accordingly allowed.

11. FIR No. 327 dated 22.07.2019 registered at Police Station Baldev Nagar, District Ambala, under Sections 323, 34, 406, 498-A and 506 of IPC and all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

(JAGMOHAN BANSAL)
JUDGE

19.05.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No