

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.256

CRM-M-44612-2023 (O&M)

Date of decision : 24.11.2023

Deepak Sahni and others

..... Petitioners

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sandeep Lather, Advocate, for the petitioners.

Mr. K.S. Thakur, AAG, Haryana

Ms. Bhumika, Advocate for
Mr. Mahesh Saxena, Advocate, for respondent No.2.

HARPREET KAUR JEEWAN, J. (Oral)

Prayer in the present petition filed under Section 482 of the Criminal Procedure Code, 1973 is for quashing of the FIR No.280 dated 20.12.2019, under Sections 323, 498-A, 406, 506 IPC, registered at Police Station Julana, District Jind, on the basis of compromise deed dated 01.03.2023 (Annexure P-2) executed between the parties.

2. Learned counsel for the petitioners *inter alia* contends that the parties have effected a compromise dated 01.03.2023 (Annexure P-2) and on the basis of said compromise, decree of divorce in a petition filed under Section 13-B of the Hindu Marriage Act, 1955 has already been passed. Copy of the petition is annexed as Annexure P-3. Copy of the decree dated 27.09.2023 passed by Dr. Parminder Kaur, Addl. District & Sessions Judge as Principal Judge, Family Court, Jind has been submitted in the Court and the same is taken on record. The statements of the parties have been recorded on 31.05.2023 and parties are living separately since 12.06.2019.

Respondent No.2-Sonia Rani @ Soniya does not want to take any legal action against the petitioners in the said FIR. As such, prayer is made to quash the said FIR alongwith all consequent proceedings.

3. On 06.09.2023, the following order was passed:-

“Learned counsel for the petitioners refer to Annexure P-2 dated 01.03.2023 to contend that a compromise has been effected between the parties and prays for quashing of FIR. No.280 dated 20.12.2019, under Sections 323, 498-A, 406 and 506 IPC, registered at Police Station Julana, District Jind (Annexure P-1).

Notice of motion for 24.11.2023.

At the asking of the Court, Mr. Arjun Lakhanpal, Addl. AG, Haryana accepts notice on behalf of the respondent No.1-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court

At this stage, Mr. Mahesh Saxena, Advocate causes representation on behalf of respondent No.2 and files his power of attorney, which is taken on record. Learned counsel for respondent No.2 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaga Magistrate on 27.09.2023 for recording their statements with regard to compromise/settlement. Trial Court/Illaga Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender.
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.
4. Whether the accused persons are involved in any other case or not.
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

A copy of the report be also sent through fax to the Registrar Judicial of this Court.”

4. The report dated 04.10.2023 of the Addl. Chief Judicial Magistrate, Jind through the District & Sessions Judge, Jind, has been received.

“(i) Initially five persons namely Deepak Sahni, Pushpa Sahni, Subhash Sahni, Sanjay Sahni and Tamana were arrayed as accused in the present FIR. During the course of investigation, Sanjay Sahni and Tamana were found innocent and on conclusion of the investigation, final report under sub Section (2) of Section 173 Cr.P.C. was filed against petitioners/accused Deepak Sahni, Pushpa Sahni, Subhash Sahni.”

As per said report, the statement of the complainant-Sonia Rani @ Soniya, joint statements of the petitioners and statement of HC-Poonam have been recorded. Copies of their statements have been duly annexed with the report.

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any coercion between the parties. No other criminal case is pending against the petitioners and there is no other victim in the present FIR except the complainant-Sonia Rani @ Soniya whose statement was recorded by the Magistrate.

5. Hon'ble the Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and others 2007 (3) RCR (Criminal) 1052**, has held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offences and quash the proceeding where the High Court is of the opinion that it is required to prevent the abuse of process of law or otherwise to secure the ends of justice.

6. Since, it was a matrimonial dispute which has been settled between the parties by way of resolving their differences and even as per the terms and conditions of the compromise, they have filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of their marriage. So in the interest of justice, it is a fit case for quashing of the FIR.

7. Consequently, the present petition is allowed and FIR No.280 dated 20.12.2019, under Sections 323, 498-A, 406, 506 IPC, registered at Police Station Julana, District Jind, and all the subsequent proceedings emanating therefrom are ordered to be quashed qua the petitioners.

8. Pending miscellaneous application(s), if any, also stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

24.11.2023

Ramandeep Singh