

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

117

CRM-M-41529-2019 (O&M)

Date of Decision : 03.02.2023

Ankush Parmar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Rakesh Kumar, Advocate
for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.0195 dated 19.09.2016 under Sections 498-A, 406, 506, 34 of IPC, registered at Women Police Station Gurugram, District Gurugram (Annexure P-1) and all other consequential proceedings arising therefrom.

2. The marriage of the petitioner was solemnized with respondent No.2 on 17.01.2016 in accordance with Hindu rites and ceremonies. The parties could not cohabit and the marriage miserably failed. Petition in terms of Section 13-B of the Hindu Marriage Act came to be filed on 18.07.2017 seeking divorce by mutual consent and a joint statement of the parties was recorded on 18.07.2017 and 24.01.2018. The statements dated 18.07.2017 and 24.01.2018 are reproduced as below :

18.7.2017

“We have amicably resolved and settled

all the issues pertaining to our respective claims, maintenance (past, present and future), Istridhan, properties and dowry etc. Both the petitioners shall remain bound by the averments made in the petition. Petitioner no.1 has averred to pay a total sum of Rs. 16 lacs to the petitioner no. 1, out of which petitioner no.1 has received two cheques each dated 18.7.2017 for a sum of Rs. 6 lack (sic.) and Rs. 2 lakh (total 8 laksh (sic.)) from petitioner no.2 today and the balance amount of Rs. 8 lakhs shall be paid by the petitioner no.2 to the petitioner no.2 to petitioner no.1 at the time of recording joint statement of parties on second motion.

We further undertake not to file any litigation in future and withdraw all the applications if filed by both of us against each other or our respective family member pertaining to this marriage and the matters connected therewith.

24.1.2018

Second Joint Statement of

Chhavi Rani, aged 28 years. W/o Sh Ankush Parmar. D/o Sh Sushil Kumar, R/o 11 H. No.3. Block-H, Hanuman Mandir Wall Gali. Ashok Vihar Ph-II Gurigram ...Petitioner no.1

And

Ankush Parmar, aged 28 years. S/o Sh Naresh Parmar, R/o H.No. ----, AKS 3. Shivalik Vihar. Zirakpur, Mohali, Chandigar...Petitioner no.2

both on SA

we have gone through our previous statement dated 18.7.2017 and in continuation

thereof it is stated that we have filed the present petition out of our free will and now nothing is due against each other. Out of the wedlock, no child was born. Both the parties shall remain bound by the terms and conditions mentioned in petition. Petitioner No.1 has received a balance amount Rs.8.00.000 through DD No. 823284 dated 9.1.2018 from petitioner No.2. Henceforth, parties shall not interfere in whatsoever manner in the personal life of each other. Parties shall not claim any right in the property of each other, which would be acquired by them in future in any manner including inheritance. We shall remain bound by our aforesaid statement made in the court on 18.-.2017. Petitioner No.1 shall cooperate No.2 in quashing of FIR which is pending before the Hon'ble High Court.

In view of joint statements of the parties as well as grounds mentioned in the petition, the same is allowed to the effect that their marriage is dissolved by a decree of divorce by mutual consent under section 13 B of Hindu Marriage Act, 1955 however, they shall remain bound by both the joint statements made before the court. In the peculiar circumstances, parties are left to bear their own costs. Decree sheet be prepared accordingly.”

3. On the basis of the joint statements of the parties, a decree of divorce dated 24.01.2018 came to be passed by Family Court, Gurugram whereby marriage was dissolved. The petitioner in terms of

compromise arrived between the parties preferred a CRM-M-46323-2017 seeking quashing of impugned FIR. Respondent No.2 did not come forward to make statement and a Co-ordinate Bench of this Court vide order dated 05.09.2019 (Annexure P-5) dismissed the aforesaid petition with liberty to file afresh on merits.

4. As noted in orders dated 15.12.2021 and 14.02.2022 of this Court, respondent No.2 stands served, however, she is not coming forward.

5. Learned counsel for the petitioner inter alia submits that private respondent has got re-married and lost her interest to pursue her grouse and at the same time, she does not want to cooperate the petitioner which has resulted into dragging the petitioner in present unnecessary litigation. The marriage between the parties stands dissolved on the basis of compromise and in the compromise, it was specifically averred that respondent No.2 shall withdraw all her criminal cases and she will cooperate with the petitioner in quashing of FIR whereas she is not coming forward. The act of respondent No.2 is contemptuous in nature and in any case, the petitioner cannot be penalised on account of lapse on the part of respondent No.2. The petitioner has already made the payment as agreed and decree of divorce stands passed on the basis of compromise between the parties. In support of his contention, learned counsel relies upon two judgments of Hon'ble Supreme Court in **Mohd. Shamin vs. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697** and **Ruchi Agarwal v. Amit Kumar Aggarwal, 2004(4) RCR (Criminal) 949** and a judgment of this Court in **Naresh Kumar and others vs. State of**

Punjab and another in CRM-M-35166-2019, decided on 02.06.2022.

6. Learned State counsel does not dispute the above noted factual position and leaves to Court to pass an appropriate order.
7. I have heard the arguments of learned counsel for the parties and perused the record.
8. From the perusal of statements of parties recorded before the Family Court, it is quite evident that the matter between the parties stands settled, however, respondent No.2 due to reasons known to her is not coming forward to make statement in favour of the petitioner. In any case, she had already made statement before the Family Court deposing that the matter stands settled between the parties and she does not want to pursue her criminal proceedings against the petitioner.

Applying the above referred judgments of Hon'ble Supreme Court and the judgment of this Court, I am of the considered opinion that continuance of proceedings against petitioner would be an abuse of process of law and there is no possibility of conviction, thus, the present petition deserves to be allowed and accordingly allowed.

FIR No.0195 dated 19.09.2016 under Sections 498-A, 406, 506, 34 of IPC, registered at Women Police Station Gurugram, District Gurugram (Annexure P-1), and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(**JAGMOHAN BANSAL**)
JUDGE

03.02.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>

