

CRM-M-46270-2024
Date of decision: 21.10.2024

...PETITIONERS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

Present: Mr. Akash Sheoran, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Naresh Kumar Khepar, Advocate along with
respondent No.2 in person.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of FIR No.0038 dated 28.04.2024 under Sections 34/406/498-A of IPC registered at Police Station Women West, District Gurugram, Haryana (Annexure P-1) and challan/report under Section 173 of Cr.P.C. dated 31.05.2024 (Annexure P-3) along with all subsequent proceedings arising therefrom on the basis of compromise.

2. The following order was passed on 18.09.2024 :-

“This petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of FIR No.0038 dated 28.04.2024 under Sections 34/406/498-A of IPC registered at Police Station Women West, District Gurugram, Haryana (Annexure P-1) and challan/report under Section 173 of Cr.P.C. dated 31.05.2024 (Annexure P-3) along with all subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 21.10.2024.



At this stage, on the asking of the Court, Ms. Geeta Sharma, DAG, Haryana accepts notice on behalf of respondent No.1-State and Mr. Naresh Kumar Khepar, Advocate accepts notice for respondent No.2 and files his vakalatnama and admits to the factum of compromise. Copy of the paper book be supplied to them during the course of day.

Service is complete.

Learned counsel for respondent No.2 submits that respondent No.2 is working in Ministry of Finance and she is outside India for official work and as such, she cannot be physically present before the learned jurisdictional Magistrate to record her statement regarding compromise. Therefore, a request for recording statement of respondent No.2 through SPA is made.

In view of the above, the prayer made by counsel for respondent No.2 is allowed. Respondent No.2 is allowed to record her statement through SPA before the learned jurisdictional Magistrate. In the meanwhile, the parties are directed to appear before the learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.”

3. In compliance of the above order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

4. Learned counsel for respondent No.2 submits that petitioner No.1 has not appeared before learned Family Court for recording his statement in second motion seeking dissolution of marriage by way of mutual consent. He further submits that respondent No.2 apprehends that in case, the present petition is allowed, the petitioners would not co-operate and petitioner No.1



would not appear before learned Family Court for recording his statement in second motion.

5. In view of the compromise and the ratio of law laid down by the Hon’ble Supreme Court in *Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834* and *Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63* and Full Bench of this Court in *Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (CrL) 1052*, this petition is allowed and FIR No.0038 dated 28.04.2024 under Sections 34/406/498-A of IPC registered at Police Station Women West, District Gurugram, Haryana (Annexure P-1) and challan/report under Section 173 of Cr.P.C. dated 31.05.2024 (Annexure P-3) and all consequential proceedings arising out of the same are quashed, qua the petitioners.

6. It is clarified that if the petitioners fail to abide by the terms and conditions of the settlement agreement, respondent No.2 would be at liberty to revive the present petition.

(HARPREET SINGH BRAR)
JUDGE

October 21, 2024
manisha

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |