

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).7220/2008
(From the judgement and order dated 03/09/2008 in CRLM No.
28552/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

ANAANT DUPAR & ORS.

Petitioner(s)

VERSUS

STATE OF PUNJAB & ANR.

Respondent(s)

(With appln. for directions, stay, permission to file addl. affidavit
and placing on record the addl. Information and office report)

Date: 26/02/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE C.K. PRASAD

For Petitioner(s) Mr. Mahesh Tiwari, Adv.
Mr. Vibhuti Sushant Gupta, Adv.
Mr. S.N. Tiwari, Adv.
Dr. Kailash Chand, Adv.

For Respondent(s) Mr. Ankur Mittal, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Jaswant Persuya, Av.
Mr. Samur Vijay Singh, Adv.

Mr. Kuldip Singh, Adv. (NP)

UPON hearing counsel the Court made the following
O R D E R

The present petition has been filed by the husband, mother-in-law and sister-in-law of the complainant (respondent No. 2 in this petition), questioning the correctness of order dated 3rd September, 2008, passed by the High Court of Punjab & Haryana in Cr.Misc. Case No. 28552 of 2005. By the impugned order, while disposing of the said petition filed by the petitioners under Section 482 of the Code of Criminal Procedure, seeking quashing of FIR No. 325 dated 6th September, 2009 lodged at Police Station Kotwali Distt. Sangrur, (Punjab), the High Court has directed that all the documents filed along with FIR

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No. 217 dated 20th August, 2009 registered at P.S. Dhalli shall be handed over to the Investigating Officer at Police Station, Kotwali, Sangrur, to enable him to conduct investigations in FIR No. 325.

When the petition came up for hearing on 17th August, 2009, it was stated by learned counsel for the parties that efforts were afoot to resolve the differences between the parties amicably as both the sides were embroiled in cross- cases against each other. We are happy to note that with the efforts of the Ld. Mediator, appointed by the mediation centre set up in the High Court of Punjab and Haryana, an amicable

settlement has been arrived at between the parties. A copy of the compromise deed executed on 9th July, 2009

at Chandigarh between the complainant, her father and maternal uncle on the one side and the husband and his mother on the other, has been placed on record. For the sake of ready reference, the terms of compromise are extracted below :

"Terms and Conditions:

(1.) That all claims of Anuradha towards maintenance i.e. past, present and future as well as any other claims ensuing from her wedlock including any claims regarding - dowry, istridhan, alimony, permanent alimony, gifts expenditure, damages, the amount accrued by virtue of interim order in the petition u/s 125 Cr.P.C. or by virtue of the order passed in revision of the said order by ADSJ Sangrur, settlement for divorce or if any other claim what so ever, have been fully and finally settled. She cannot claim anything in any manner from the second party at any time.

(2.) Both the parties undertake not to make any claim or seek compensation from each other now or in future.

(3.) Both the parties have agreed to withdraw their respective cases filed by them or their relatives against each other. The first party shall first withdraw all the cases filed at their instance and shall get the FIRs quashed against the second party. They (Mrs. Anuradha and Mr. Vinay Mohan Gulati) shall give an affidavit/statement as required in the SLP.No.7220 (Criminal) of 2008 in the Hon'ble Supreme ..3/-

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Court and shall get the FIR No.325 dt, 6.9.2004 against second party at Sangrur and FIR No.217 dt. 20.8.04 at Shimla quashed.

(4.) After withdrawal/quashing of all the cases by the first party, a petition for quashing the case u/s 306 IPC in the Hon'ble High Court shall be moved by the first party in which Dr. Manju Lata shall give an affidavit that she has no objection if the FIR No. 128 dt. 25/09/2004 u/s 306 IPC registered by GRP Ludhiana is quashed. The second party shall also withdraw the case u/s 340 Cr.P.C. against, the first party which is pending in the court at Ludhiana.

(5.) That simultaneously with the filing of petition for quashing of the case FIR No. 128 dt. 25.9.04 u/s 306 IPC, both parties shall move an application for conversion of application U/s 13 HMA into that of 13-B HMA along-with a joint petition under section 13-B of H.M.A. for dissolution of marriage by mutual consent in the court of District Judge Chandigarh. None of the parties at any stage shall withdraw consent to the petition u/s 13-B of H.M.A. within three days of the quashing of the FIR in the case under section 306/34 IPC by the High Court, both the parties, shall apply/give statement for waiving of the remaining statutory waiting period of six months for the divorce. Both parties agree not to file any appeal against the decree of divorce so granted.

(6.) Both the parties would remain bound to make necessary appearance and statement before the courts of competent jurisdiction to get the cases quashed/withdrawn.

(7.) All or any known or unknown complaints/criminal cases/civil suits of any nature filled by either party or their family members shall stand withdrawn/closed immediately, as a consequence of this compromise.

(8.) That no party or their relatives shall make any claim/right in respect of any movable or immovable property against the other party.

(9.) That no party or his/her relatives shall involve each other or their family members in any fresh civil or criminal litigation in respect of any of the past issues between them.

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(10.) That it has further been agreed and settled between the parties that both of them, and their concerned relatives, shall comply with and implement, honestly and sincerely the above mentioned terms and conditions and do all incidental acts whatsoever required by circumstances to ensure implementation of this compromise/settlement. They shall keep on informing each other of the steps taken and requirement/presence of the other party in the court with date and place to meet to do the stipulated/incidental acts as per terms of the compromise mentioned in this deed.

(11.) That it has further been agreed that violation of any conditions of this agreement by any party shall render the entire agreement a nullity and all cases mentioned hereinabove shall be re-instated."

Learned counsel for the parties submit that all the terms and conditions of the compromise have since been complied with by the parties and an application under Section 13B of the Hindu Marriage Act, 1955 (For short, 'the Act") for grant of divorce by mutual consent has also been filed. First statement of the parties has been recorded by the District Judge, Chandigarh. Learned counsel thus, pray that in view of the said settlement, all the complaints filed by the parties against each other may be quashed and the period of second motion in terms of sub-section (2) of Section 13B of the Act be reduced.

Having heard learned counsel for the parties, we are of the view that since the parties have decided to amicably settle the disputes between them, in order to do complete justice to them, it is a fit case where we should exercise the powers vested in this Court under Article 142 of the Constitution and reduce the period of the second motion and also quash all the criminal cases pending against each other.

Accordingly, we direct that the district Judge, Chandigarh shall grant divorce on the basis of the joint petition filed by the parties in that Court Section 13B of the Act, in respect of the marriage solemnized between petitioner No. 1 and respondent No. 2 on 14th January, 2003 at Ludhiana (Pb) according to Hindu rites and customs, without insisting on the

second motion in terms of sub-section (2) of Section 142 of the Act. The said marriage shall stand

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dissolved from the date of the judgment and decree to be passed by the learned District Judge, Chandigarh.

We further direct that all the cases arising out of (i) FIR No. 128 dated 25th September 2004 under Sections 306/34 IPC registered at P.S. GRP, Ludhiana, pending trial in the Court of Additional Sessions Judge, Ludhiana, (ii) FIR No. 217 dated 20th August, 2004 under Section 406 IPC registered at P.S. Dhali, Shimla pending trial in the Court of JMIC Shimla and (iii) FIR No. 325 dated 6th September, 2004 under Section 498-A & 406 IPC registered at P.S. Kotwali, Sangrur, pending investigation shall stand quashed.

All sureties, including, cash sureties, if any, shall also be discharged. If any cash was deposited or articles were seized from the premises of the petitioners herein, the same shall be returned to them by the Court(s) concerned.

The special leave petition is disposed of in above terms.

[Charanjeet Kaur]
Court Master

[Pushap Lata Bhardwaj]
Court Master