

**(1998) 03 P&H CK 0156**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. 4624-M of 1998**

Paritosh Jain

APPELLANT

Vs

Union Territory Administration Chandigarh

RESPONDENT

---

**Date of Decision :** 11-03-1998

**Acts Referred:**

**Citation :** (1998) 2 RCR(Criminal) 419

**Hon'ble Judges :** B.Rai, J

**Advocate :** Ajay Lamba, Hemant Kumar, Navkiran Singh, Advocates for appearing Parties

---

## **Judgement**

B. Rai, J.

1. This petition under Section 482 Cr.P.C. has been filed by Paritosh Jain and his parents namely; his mother Smt. Tripathi Jain and father S.K. Jain with a prayer for quashing of FIR No. 26 dated 24.2.1997, under Sections 498A/406 I.P.C. registered at Police Station West, Chandigarh.

2. Brief facts of the case are that Paritosh Jain married Rachna on 14.4.1989 according to Hindu rites and ceremonies at Ajmer. From their wedlock a female child namely Asmi Jain was born on 28.10.1993. Husband and wife, however, could not pull on together and started living separately from each other for the last almost three years. Paritosh Jain filed a petition under Section 13 of the Hindu Marriage Act (hereinafter referred to as the Act) in a Court at Ajmer Singh which came to be transferred to the Court of competent jurisdiction at Chandigarh. Later on, husband and wife settled all the disputes and effected a compromise. They decided to live separately from each other. During the pendency of the petition under section 13 of the Act, a joint petition under section 13B of the Act was filed in the Court of Additional District Judge, Chandigarh, on 29.2.1998. A prayer was also made that the proceedings under section 13 of the Act be converted into the proceedings under section 13B of the Act. Copy of the petition under section 13B of the Act is annexed as Annexure P1 with this petition. Statements of the parties were recorded. Consequently, a

decree of divorce by mutual consent was passed on 2.3.1998 dissolving their marriage.

3. During the strained relations between the husband and wife, the wife Rachna made a complaint to the police of Police Station West, Chandigarh on the basis of which F.I.R. in question was registered in which the investigation is still going and the challan has not so far been put up in Court. It was further pleaded that it was agreed between the husband and wife that she would withdraw the petition filed under section 125 Cr.P.C. for the claim of maintenance. The terms and conditions of the compromise were as follows :

"(i) That petitioner No. 1 shall pay a sum of Rs. 3.00 lacs to petitioner No. 2 towards permanent alimony and maintenance. On receipt of the said amount, the petitioner No. 2 shall have no further claim or right in respect of maintenance or permanent alimony;

(ii) That petitioner No. 1 shall pay another sum of Rs. 1.00 lac to Asmi i.e. daughter of the parties. The said amount is towards all claims of maintenance and alimony of the child. However, the petitioner No. 1 shall be at liberty to contribute any amount which he may consider appropriate at any subsequent stage of the life.

(iii) That the custody of the child Asmi will be with the petitioner No. 2 who shall be her natural and legal guardian and will continue to be so even if she decides to remarry. In case the child is not to reside with the petitioner No. 2 in any situation then petitioner No. 1 shall have custody of the child. However, petitioner No. 1 shall have a right to meet the child with prior intimation once in a month at a place and time to be mutually agreed.

(iv) That on receipt of the amount mentioned aforesaid the parties shall dissolve their marriage by mutual consent and shall have no right, claim of any kind whatsoever against each other.

(v) That the petitioner No. 2 shall withdraw the suit for maintenance pending in the Court of Shri B.C. Gupta after the decree of divorce is granted.

(vi) That since the parties have settled all their disputes, therefore, the petitioner No. 2 shall have no objection for quashing of the FIR No. 26 dated 24.2.97 under Section 498A/406 IPC in such proceedings and in such manner as it may be considered appropriate by the petitioner. The petitioner No. 2 shall have no objection in dropping of the proceedings in respect of the FIR."

4. It has been prayed that in view of the fact that husband and wife have mutually agreed to snap their relations as husband and wife for ever and they have parted company with each other by obtaining a decree of divorce by mutual consent under section 13B of the Act, the continuation of investigation in the FIR lodged by the wife has pushed the petitioners to face the trial which would be an exercise in futility especially when the wife has no objection to the quashing of the FIR and the investigation conducted therein. On these premises, therefore, a

prayer has been made to quash the FIR in question and all the investigation conducted thereunder.

5. The wife at whose instance, the FIR in question was registered has been impleaded as respondent No. 2. She has put in appearance in person and has not controverted the pleas taken by the petitioners. Her statement has also been recorded separately. While reiterating the terms and conditions of the agreement arrived at between her and her husband Paritosh Jain, she has added that she had also made a statement before the Matrimonial Court that since the parties have settled all the disputes, therefore, petitioner No. 2 shall have no objection to the quashing of FIR No. 26 dated 24.2.1997, under sections 406/498A IPC registered at Police Station West, Chandigarh. It was also stated by her that she has no objection, if the said FIR and the proceedings taken thereunder are quashed.

6. Once the parties have agreed to bury their differences for all times to come and have opted to live separately to lead a life of their own choice and taste after obtaining a decree of divorce by mutual consent under Section 13B of the Act, the Court shall not stand in their way to allow the FIR to remain alive and to continue the investigation. That would be a wastage of public time and money. It would also be an exercise in futility if the petitioners are made to go through the mill of criminal proceedings.

7. For the foregoing reasons, this petition is allowed, F.I.R. No. 26 dated 24.2.1997 under Sections 406/498A IPC registered at Police Station West, Chandigarh and the investigations ensuing therefrom are quashed. No costs.