

Crl. Misc. No. 24187-M of 2013 &

Crl. Misc. No. 1566-M of 2014 **1**

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

Crl. Misc. No. 24187-M of 2013

Rishi Raj Gangotra & Ors PETITIONER (s)

Versus

State of Punjab & Anr

..... RESPONDENT (s)

Crl. Misc. No. 1566-M of 2014

Rishi Raj Gangotra & another PETITIONER (s)

Versus

State of Punjab & Anr

..... RESPONDENT (s)

Date of Decision: 29.01.2015.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.R.P.S. Cheema, Advocate and

Mr. K.S. Dadwal, Advocate, for the petitioners.

Mr. P.S. Grewal, DAG, Punjab.

Mr. J.S. Bhatti, Advocate, for respondent No.2.

LISA GILL, J.(Oral)

**Crl. Misc. No. 24187-M of 2013 has been filed
under Section 482 of the Code of Criminal Procedure for
quashing of the FIR No.8 dated 04.02.2012 under Sections**

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406, 498-A, 506 IPC registered at Police Station Islamabad, District Amritsar and all other consequential proceedings arising therefrom, in view of the compromise dated 16.05.2013 (Annexure P-2) entered into between the petitioners and respondent No.2.

Crl. Misc. No. 1566-M of 2014 has been filed by Rishi Raj Gangotra and Chander Manish Gangotra for setting aside order dated 23.11.2012 declaring them to be proclaimed offenders, contending it to be illegal as proper procedure envisaged under Section 82, Cr.P.C. has not been followed. It is submitted that the said petitioners were in New Zealand not only at the time of alleged proclamation but also at the time of registration of FIR.

It is submitted that the matter had been placed before the Mediation and Conciliation Centre of this court and the dispute has been settled amicably. The terms and conditions of settlement were reduced into writing on 16.05.2013 (Annexure P-2). It was agreed that petition under Section 13-B of Hindu Marriage Act would be filed in the court of competent jurisdiction at Amritsar and Vasdev Gangotra would sign the petition on behalf of petitioner No.1 being the General Power Attorney holder. It was also agreed between the parties that petition filed by respondent No.2

Shashi Bala under the Protection of Women from Domestic Violence Act 2005 would be withdrawn by her.

Shashi Bala would have no objection to the quashing of the FIR No. 8 dated 04.02.2012. She would cooperate for having the said FIR and any proceedings arising therefrom, quashed. She would record her statement to this effect, file an affidavit for getting the FIR quashed. She would have no objection to the quashing of this FIR against all the accused persons. A total sum of ₹20,00,000/- was to be handed over to respondent No.2 in various installments as has been detailed in the settlement.

It is submitted that the said settlement arrived at has ultimately been acted upon by the parties though at one stage COCP No. 601 of 2014 was filed against respondent No.2 when she tried to back-out from the settlement. On 28.03.2014 a petition under Section 13-B of Hindu Marriage Act, 1955, has been allowed and marriage between petitioner No.1 Rishi Raj Gangotra and respondent No.2 Shashi Bala has been dissolved by mutual consent pursuant to the above mentioned settlement. Judgment dated 28.03.2014 has been placed on record as Annexure P-6.

It is further informed that the petition under the Protection of Women from Domestic Violence Act 2005 has

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since been withdrawn by respondent No.2.

Entire amount of ₹20,00,000/- stands paid to respondent No.2 Smt. Shashi Bala. She has filed her affidavit dated 25.03.2014 affirming the factum of settlement dated 16.05.2013. It is averred in the affidavit that she has no objection to quashing of the said FIR qua all the accused persons in terms of settlement dated 16.05.2013.

Learned counsel for the State while affirming the factum of settlement between the parties submits that petitioners No.1 and 4 have been declared proclaimed offenders and this petition has been filed on their behalf through Power of Attorney holder.

Learned counsel for the petitioners refers to decisions Balbir Singh Versus State of Punjab and another, 2011 (3) RCR (Crl.) 234 and Kulwant Singh Versus State of Punjab and another, 2011(3) RCR(Crl.) 266 to submit that the said petitioners being proclaimed offenders will not come in the way of quashing the said FIR.

Be that as it may, it is apparent that the matter, which arises from matrimonial discord has been finally settled in an amicable manner between the parties. Petitioner No.1 and respondent No.2 have been granted the

decree of divorce. The entire amount of ₹20 lacs due towards respondent No.2 in terms of the settlement between them stands paid to her. The settlement between the parties is obviously genuine, arrived at voluntarily and duly acted upon.

Petitioners No.1 and 4 in Crl. Misc. No. 24187-M of 2013 have separately challenged order dated 23.11.2012 passed by the learned trial court whereby they were declared proclaimed offenders vide Criminal Misc. No. 1566-M of 2014. It is their specific case that the provisions of law mandated under Sections 82 Cr.PC have been violated inasmuch as it is a matter of record that the said petitioners were in New Zealand not only at the time of proclamation under Section 82 Cr.P.C but also at the time of registration of the FIR. Therefore, this order in any case is illegal and liable to be set aside.

In normal circumstances, this court would refrain from quashing the FIR in respect to a person declared as a proclaimed offender but keeping in view the entire facts and circumstances of the case, the factum of petitioners No. 1 and 4 being declared proclaimed offenders in this case, would not come in way of quashing of the FIR against the petitioners. The matter which arises from matrimonial

discord, has been amicably settled between the parties. The chances of conviction of the accused are rendered totally bleak in this case. Continuance of the proceedings in this case will be an exercise in futility and shall only lead to the wastage of time of courts. The parties want to bury the hatchet and lend a quietus to the issue. In such situation it would be in the interest of justice to quash the said FIR rather than be constrained by such considerations. Furthermore, it is an admitted position that the petitioners Rishi Raj Gangotra and Chander Manish Gangotra were in New Zealand even at the time of registration of the FIR dated 04.02.2012. There was no publication in New Zealand.

In Kulwinder Singh and others versus State of Punjab and another, 2007(3) R.C.R. 1052, a five member Bench of this court has observed,

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Code of Criminal Procedure is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is, “finest hour of justice”.

Thus continuance of the FIR dated 04.12.2012 and any

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further proceedings arising therefrom , in the facts and circumstances of the cases will not serve any useful purpose. Chances of conviction of the accused are bleak.

Keeping in view the above, FIR No.8 dated 04.02.2012 under Sections 406, 498-A, 506 IPC registered at Police Station Islamabad, District Amritsar as well as consequential proceedings arising therefrom are hereby quashed. Consequently, order dated 23.11.2012 is also set aside.

Petitions are, accordingly, allowed.

29.01.2015.

Anoop

(LISA GILL)

JUDGE