

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

**Criminal Misc. No. M-40678 of 2014
Date of Decision: 16.09.2015**

Raj Kaur & another

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. S.K. Sharma, Advocate
for the petitioner (s).

Mr. P.S. Madahar, AAG, Punjab.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.106 dated 11.4.2013 under Sections 498-A IPC registered at Police Station Phillaur, District Jalandhar (Annexure P-1) on the basis of compromise dated 17.10.2014 (Annexure P-2).

This Court vide order dated 28.11.2014 had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the compromise/settlement dated 17.10.2014 (Annexure P2) and the Illaqa Magistrate/trial Court was

directed to submit its report.

Pursuant to the aforesaid order dated 28.11.2014, the parties have appeared before the learned Sub Divisional Judicial Magistrate, Phillaur and have got their statements recorded before her. Learned Magistrate has forwarded her report dated 5.2.2015 to the effect that on the basis of the statements suffered by the parties, though the compromise entered between them is genuine, voluntary and without any coercion or undue influence, however, petitioner no.2-Sarabjit Singh has been declared as proclaimed offender. The statement of the complainant Kamaljeet Kaur reads as under:-

“Stated that I have compromised the matter with the accused persons, namely, Raj Kaur wife of Natha Singh, Sarabjit Singh son of Natha Singh (since P.O.) residents of Kothi No.49, Focal Point, Rajpura, District Patiala. Now, I have no grudge against the above said accused persons. I have seen the original compromise dated 17.10.2014, the true copy of the same is Ex.C1. I have received one draft bearing No.758047 of Rs.2,50,000/- of Axis Bank Branch, Rajpura dated 26.11.2014 and the second draft bearing no.569893 Rs.2,50,000/- of Oriental Bank of Commerce dated 26.11.2014 from the accused Raj Kaur present in the Court today. The copies of the same are Ex.C2 and Ex.C3. I have already received Rs.5,00,000/- from them. Thus total amount of Rs.10 lacs as my past, present and future maintenance has been received by me from my in laws family. I shall not file any kind of case or application against any member of my in laws including Raj Kaur

and aforesaid Sarabjit Singh. I shall remain bound by the terms and conditions of the compromise deed Ex.C1. I shall withdraw all the cases, application filed by me against the aforesaid Raj Kaur and Sarabjit Singh and any other family member or associates of my in law at the earliest. This statement has been suffered by me voluntarily, free will and consent without any kind of influence or coercion. I hereby give my full consent for the quashing the above mentioned FIR No.106 dated 11.04.2013.

RO & AC
Sd/- (Kamaljeet Kaur)

Sd/-
(Preet Sukhija)
Sub Divisional Judicial Magistrate,
Phillaur/23.12.2014"

Learned counsel for the petitioner contends that since the complainant has now suffered a statement that she has compromised the matter with the accused persons including Sarabjit Singh, petitioner no.2 and she has no objection if the present FIR is quashed, the present petition deserves to be accepted.

On the other hand, learned State counsel on instructions from ASI Pritvi Raj, has not disputed the genuineness of the compromise arrived at between the parties. However, in view of the report of the trial Court, he has submitted that the fact that petitioner no.2-Sarabjit Singh has been declared as proclaimed offender disentitles him to seek the indulgence of this Court.

Learned counsel for the petitioners submits that since petitioner no.2 is settled abroad, he was not aware of the

proceedings initiated against him. He relies upon a judgment of this Court in the case of **Deepak Kumar Malhotra v. State of Punjab & another CRM No.M-17827 of 2013 dated 16.8.2013** to contend that even if a person has been declared as proclaimed offender, the fact that the parties have resolved their matrimonial differences amicably should not be ignored and mere fact that the petitioner no.2 has been declared as proclaimed offender should not be allowed to come in the way of quashing the proceedings. In this case, this Court while relying upon a Division Bench judgment of this Court in the case of **Sudo Mandal alias Diwarak Mandal v. State of Punjab 2011(2) RCR (Criminal) 453** and **Balbir Singh v. State of Punjab and another 2011 (3) RCR (Criminal) 234**, has allowed the quashing of proceedings of a criminal case at the behest of accused who has been declared as proclaimed offender by holding that the dispute is primarily civil in nature and the factum of the petitioner being declared as proclaimed offender should not create any impediment in the way to quash the proceedings.

Accordingly, following the principles laid down by the Full Bench judgment of this Court in **Kulwinder Singh and others v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052 (P&H)**, as approved by the Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and others, (2012)10 SCC 303**, this petition is allowed and FIR No.106 dated 11.4.2013 under Sections 498-A IPC

1) and other consequential proceedings arising therefrom are quashed in view of compromise dated 17.10.2014 (Annexure P-2).

September 16, 2015
AK

(HARI PAL VERMA)
JUDGE