

Crl. Misc. No.M-220 of 2016

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

Crl. Misc. No.M-220 of 2016

Date of Decision: 28.05.2016

Jaspal Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. H.S. Randhawa, Advocate
for the petitioners.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

Mr. Anshul Mangla, Advocate
for respondents No.2 and 3.

DAYA CHAUDHARY, J.

Prayer in the present petition is for quashing of FIR No.53 dated 11.08.2012 registered at Police Station Begowal, District Kapurthala for offences punishable under Sections 406 and 498-A IPC along with all subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties.

The FIR, in question, was registered on the basis of complaint made by respondent No.2, wherein, certain allegations of demand of dowry and harassment were levelled against the petitioners. The matter was investigated into by the Investigating Agency and the challan was presented only against petitioners No.1 and 2 but not against petitioners No.3 to 5 as

they were abroad.

However, during pendency of the proceedings, a compromise was arrived at between the parties. Petitioners no.3 to 5 have authorized their mother, namely, Amarjit Kaur (petitioner No.2) to file petition on their behalf.

As per compromise, it was settled to pay an amount of ₹ 16,40,000/- in *lump sum* as past, present and future maintenance. Out of the said amount, an amount of ₹ 10 lacs was paid at the initial stage and the remaining amount was to be paid within six months from the date of execution of the compromise. In pursuant thereto, divorce petition was also filed by respondent No.2 under Section 13(1)(ia) of Hindu Marriage Act, 1955, whereby, the decree of divorce was passed in favour of respondent No.2 on the ground of cruelty and desertion and the marriage between the parties solemnized on 07.04.2010 was dissolved. The said decree of divorce was passed *ex-parte* as none appeared on behalf of the petitioner-husband.

Learned counsel appearing on behalf of the respondents have not disputed the submissions made by learned counsel for the petitioners.

Heard the arguments of learned counsel for the parties and have also perused the FIR, compromise deed and other documents available on the file including the statements of the parties recorded in compliance of directions issued by this Court on 24.02.2016, wherein, the factum of compromise has been affirmed.

Complainant has specifically stated in her statement that she has no objection in quashing of FIR as well as other proceedings arising therefrom. There are total five accused in the FIR. Petitioners no.3 to 5 have given their power of attorney in favour of their mother-Amarjit Kaur

(petitioner No.2) to make statement on their behalf, to appear in the case for quashing of petition or to file any affidavit on their behalf.

Although, petitioners No.3 to 5 were declared as proclaimed offender and no challan was presented qua them and the challan was presented qua petitioners No.1 and 2 only.

In case of P.O., the FIR is not normally quashed but in the present case, the matter has been compromised with the complainant and P.O order passed in case of petitioners No.3 to 5 should not be allowed to come in their way while quashing the proceedings. A reference can be made to a Division Bench Judgment of this Court in ***Sudo Mandal alias Diwarak Mandal vs State of Punjab 2011(2) RCR (Criminal) 453***. In that case, out of five accused, in a murder case, three were declared as proclaimed offenders and two accused were arrested and sent up for trial. They were convicted by the trial Court but were acquitted in an appeal by this Court. The criminal proceedings were quashed qua those accused also, who were declared as proclaimed offenders while exercising powers under Section 482 Cr.P.C with the observations that it would be empty formality to send them for trial on same unbelievable and untrustworthy evidence which would ultimately lead to their acquittal.

Similarly, in ***Balbir Singh vs State of Punjab and another 2011(3) RCR (Criminal) 234***, this Court has allowed the quashing of proceedings of a criminal case of accused, who was declared as proclaimed offender as the dispute was primarily civil in nature. It was held that proclaimed offender proceedings should not create any impediment in the way to quash the proceedings.

Criminal proceedings were also quashed of accused, who were

declared as proclaimed offenders in case ***Criminal Misc. No.M-27887 of 2014*** titled as ***Paramvir Singh and another vs State of Punjab and another*** decided on ***08.01.2015***.

Admittedly, the parties have compromised the dispute, which is as per their free will and without any pressure or influence from other side. No purpose would be served, in case, the proceedings are allowed to continue as the complainant is not going to support the case of the prosecution because of compromise.

A larger Bench of this Court in ***Kulwinder Singh vs State of Punjab 2007(3) RCR (Criminal) 1052*** has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties.

Accordingly, I am of the considered opinion that continuation of the criminal proceedings would amount to abuse of process of law and it is in the interest of justice that criminal proceedings are put to an end.

In view of the above, the present petition is allowed. FIR No.53 dated 11.08.2012 registered under Sections 406 and 498-A IPC at Police Station Begowal, District Kapurthala along with all consequential proceedings arising therefrom qua petitioners-Jaspal Singh, Amarjit Kaur, Sharbjit Singh, Rajinder Kaur and Jaswinder Singh, are hereby quashed.

28.05.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE