

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

**CRM-M-38883-2015
Date of Decision: 16.08.2017**

Bhupinder Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Abhishek Sharma, Advocate,
for the petitioners.

Mr. Abhaypal Singh Gill, AAG, Punjab,
for respondent Nos. 1 to 3.

Mr. Naveen Daryal, Advocate,
for respondent No. 4.

JAISHREE THAKUR, J. (Oral)

1. The instant petition has been filed under section 482 of Cr.P.C. seeking to quash the FIR bearing No. 35 dated 20.04.2012, under Sections 498-A, 406, 420, 494, 506 and 34 of the IPC, registered at Police Station Ghumman Kalan, Police District Gurdaspur and all subsequent proceedings arising out of the aforesaid FIR, on the basis of compromise dated 03.08.2015 entered into between the parties.

2. In brief, the facts are that a marriage was solemnized between the son of petitioner No. 1 with the daughter of respondent No. 4 in the year 2011, however, on account of non-compatibility, the marriage did not survive. Respondent No. 4 registered the present FIR against the petitioners' family under Sections 498-A, 406, 420, 494, 506 and 34 IPC and eventually

with the intervention of the respectable of both families, a compromise dated 03.08.2015 was effected. It was decided that petitioner No. 3 and the daughter of respondent No. 4 would part their ways. In the said compromise, it was also recorded that the complainant and his daughter would have no objection if the FIR is quashed by filing of the petition in the High Court. It was decided between the parties that a sum of Rs. 16,50,000/- in the shape of permanent alimony as well as price of dowry articles would be given. Pursuant to the compromise arrived at, a petition under section 13-B of the Hindu Marriage Act, 1955 was also preferred. The instant petition has been filed on the ground that in terms of the compromise all proceedings under the FIR ought to be quashed.

3. It is also noted that after the filing of the instant petition in the High Court, petitioner No. 3, who was residing abroad, was declared as a proclaimed person by the Judicial Magistrate First Class on 24.12.2015 (Annexure P-6).

4. The parties herein were directed to appear before the JMFC for recording of their statement regarding genuineness of the compromise. In the report received from the JMFC, Gurdaspur, it was noted that the complainant had appeared in the Court and made a statement regarding the compromise having arrived at between the parties and that he would have no objection in case the FIR is quashed in the High Court. The statement of the daughter of the complainant was also recorded to the effect that she would have no objection in case the FIR is quashed by the High Court. While sending the report to this High Court, the JMFC stated that accused Amandeep Singh son of Bhupender Singh, petitioner No. 3 herein, had been declared a proclaimed person.

5. The Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer, admits the factum of compromise and submits that the parties have indeed settled their dispute, however, he points out that petitioner No. 3 has been declared as a proclaimed person.

6. I have heard learned counsel for the rival parties and have also gone through the record.

7. In a decision, based on compromise, none of the parties is a loser. Rather, a compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

8. The order dated 24.12.2015, by which the petitioner No. 3 was declared as a proclaimed person, is also not sustainable in view of the fact that there is non-compliance of Section 82 Cr. P.C. Admittedly, petitioner No. 3 was residing abroad as would be evident from the fact that the petition under Section 13-B of the Hindu Marriage Act was preferred through his special power of attorney since he was residing in Italy. There is nothing on the record to show that an effort was made to serve him through his embassy. In view of the fact that there is non-compliance of section 82 Cr.P.C in effecting service upon petitioner No. 3 order dated 24.12.2015 is not sustainable.

9. Consequently, keeping in view the fact that the dispute has been amicably settled and in view of the law laid down by the Hon'ble

Supreme Court in *Gian Singh Versus State of Punjab and another, 2012(4) RCR (Cr.) 543*, this petition is allowed and FIR No. 35 dated 20.04.2012, under Sections 498-A, 406, 420, 494, 506 and 34 of the IPC, registered at Police Station Ghumman Kalan, Police District Gurdaspur and all subsequent proceedings arising out of the same are quashed qua the petitioners. Order dated 24.12.2015, declaring petitioner No. 3 as a proclaimed person, is also quashed.

10. The petition stands disposed of.

August 16, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No