

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

Crl. Misc. M 39575 of 2017 (O&M)
Date of decision: 24.1.2018

Maninder Kaur Sodhi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. GK Mann, Advocate
for the petitioner.

Mr. A.S. Sandhu, Additional Advocate General, Punjab.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 209 dated 5.6.2002 (Annexure P/2) registered under Sections 406, 498-A, 323 and 120-B IPC at Police Station Kotwali, District Patiala, and all subsequent proceedings arising therefrom, in view of the compromise dated 3.10.2017 (Annexure P/7) with a further prayer to quash the order dated 4.3.2006 (Annexure P/6), whereby petitioner was declared as proclaimed offender.

The facts, in brief, are that the aforesaid FIR came to be registered on the statement of respondent No.2 (since deceased) against the petitioner and her brother Hashminder Singh on the allegations that the complainant was married to Hashminder Singh in March, 1994. After the marriage, the complainant stayed at Moga with her husband where a son was

born to her. In the year 1996, the father of the complainant retired as Kanungo and received his pensionary benefits. The petitioner, her husband and Hashminder Singh started maltreating the complainant for demand of money to run some business. The complainant allegedly gave Rs. 50,000/- to her in-laws, after getting the same from her father. It was alleged that the petitioner (being Nanand) used to maltreat the complainant along with her parents. In the proceedings in the FIR, petitioner was declared proclaimed offender on 4.2.2006 by the Chief Judicial Magistrate, Patiala.

Learned counsel for the petitioner submits that the FIR in question is liable to be quashed as no specific role has been attributed to the petitioner. The period during which the allegations of demand of dowry have been made, the petitioner was not residing in her house along with the complainant. She was studying in a University and was living in a hostel. In fact, general allegations of demand of dowry have been made. It is further submitted that all other accused named in the FIR, after trial, have been acquitted and the appeal dismissed. The petitioner, who, after her marriage left India, has nothing to do with the matrimonial affairs of her brother. Service was not effected upon her as envisaged under Section 82 of the Code of Criminal Procedure. Moreover, the complainant has since expired and Jasleen Singh, the legal heir of the deceased complainant, has sworn an affidavit that he has no objection in case, the FIR is quashed qua the petitioner. In support of her arguments, she relies on **Jasvinder Singh**

Versus State of Punjab and another 2013 (1) RCR (Criminal) 310.

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

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.

However, learned counsel for the State raises an objection that petitioner stand declared as proclaimed offender and, therefore, the proceedings qua her ought not be quashed.

This argument is not sustainable on account of the fact that petitioner, after her marriage on 17.3.2004, migrated to Canada and as such she was not in India when she was declared proclaimed offender. Once she was residing in Canada, there is non-compliance of Section 82 of the Code of Criminal Procedure in so far there is nothing available on record to show that efforts were made to serve through the Embassy. Moreover, co-accused on the same set of allegations have already been acquitted and the appeal dismissed. No useful purpose would be achieved in continuing with the trial. It also cannot be lost sight of that the complainant has since expired.

For the reasons afore-stated, this petition is allowed and FIR No. 209 dated 5.6.2002 (Annexure P/2) registered under Sections 406,

498-A, 323 and 120-B IPC at Police Station Kotwali, District Patiala, and all subsequent proceedings arising therefrom, in view of the compromise dated 3.10.2017 (Annexure P/7) and the order dated 4.3.2006 (Annexure P/6), whereby petitioner was declared as proclaimed offender, are set aside.

The petition stands disposed of.

24.1.2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No