

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

Crl. Misc. M- 40837 of 2017 (O&M)
Date of Decision: 11.12.2018

Surinder Singh

...Petitioner

Versus

U.T., Chandigarh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashok Giri, Advocate
for the petitioner.

Ms. Ashima Mor, Additional Public Prosecutor, U.T.,
Chandigarh.

Mr. Arshdeep Bhullar, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. This is a petition that has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 223 dated 11.4.2008 (Annexure P/1) registered under Sections 406, 498-A, 420 IPC at Police Station Sector 39, Chandigarh, and all subsequent proceedings arising therefrom, including order dated 1.12.2012, vide which the petitioner has been declared as proclaimed person.

2. In brief, the facts are that a marriage of the complainant was solemnized with Gurpal Singh, brother of the petitioner, on 29.11.1998 and out of this wedlock two female children were born. A matrimonial dispute

arose between the parties, which led to the registration of the aforesaid FIR,

after about 10 years of the marriage, against the entire family of her in-laws, including old parents and the present petitioner, who is brother-in-law (*Jeth*). In the month of May, 2008, the petitioner got VISA of Italy and went there. It is submitted that although the parents of the petitioner suffered a statement to the effect that the petitioner has gone abroad since May, 2008, still instead of serving him at the address of Italy, the police without following the procedure as laid down under Section 82 of the Code of Criminal Procedure proceeded to declare him proclaimed person, vide order dated 1.12.2012.

During the integral period, with the intervention of respectables and family friends the matter was compromised and as per the terms of the compromise, a sum of ₹19 lakhs along with 2 kanals of land was transferred in favour of the complainant as well as the minor daughters.

Upon notice of motion, appearance has been caused on behalf of the complainant, who argues that the complainant is not bound to come forth to have the complaint quashed since the compromise has been arrived at between Randhir Singh son of Thaman Singh and Manvinder Kaur wife of Randhir Singh (and the complainant), who are parents of the petitioner, who was not party to the compromise.

I have heard learned counsel for the parties and find no merit in the submissions that have been made on behalf of the complainant. Admittedly, the complainant herein entered into a compromise on 11.2.2015 between herself and Randhir Singh son of Thaman Singh (father-in-law) and

Manvinder Kaur wife of Randhir Singh (mother-in-law), wherein it had been decided that the complainant would make a statement regarding quashing of the FIR after she had received the amount and the land, as stipulated in the compromise. There is no dispute about the facts that the complainant has received the amount of ₹19 lakhs as well as the land has been transferred in her favour, in terms of the compromise. Clause 4 of the compromise reads as under:-

“4. That the second party undertakes to appear before the competent court of law or before the Hon'ble High Court as and when her presence is required for the quashing of the case FIR against the first party, including the other co-accused.”

Thus, the compromise clearly mentions one of the terms that the complainant shall be present in the competent court of law for quashing of the FIR against the party, including the other co-accused. Since the petitioner herein is a family member, being elder brother of the husband of the complainant, who was also co-accused in the FIR, therefore, the stand taken by the complainant that the FIR cannot be quashed since the petitioner herein was not a signatory to the said compromise is not sustainable. Furthermore, admittedly, the petitioner was not in India, when he was declared proclaimed person.

For the reasons afore-stated, this petition is allowed and FIR No. 223 dated 11.4.2008 (Annexure P/1) registered under Sections 406, 498-A, 420 IPC at Police Station Sector 39, Chandigarh, and all subsequent proceedings arising therefrom, including order dated 1.12.2012, vide which

the petitioner has been declared as proclaimed person, are quashed.

The petition stands disposed of.

11.12.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No