

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

274

CRM-M-28794-2018

Date of Decision:21.01.2019

Resham Kaur and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

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

Present: Mr. Deepak Verma, Advocate,
for the petitioners.

Mr. Jagmohan Ghuman, D.A.G., Punjab.

Mr. Harnek Singh, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.161 dated 25.12.2017 (Annexure P-1) under Sections 498-A, 417 IPC, 1860, DDR No.15 dated 10.01.2018 (Annexure P-2) and DDR No.16 dated 11.01.2018 (Annexure P-3) (vide which the offences punishable under Sections 406, 506 IPC were added later on), registered at Police Station City Nawanshahr, District SBS Nagar, Punjab and all the consequential proceedings arising therefrom on the basis of compromise/settlement dated 15.03.2018 (Annexure P-4).

Learned counsel for the petitioners states that the matter has been compromised between the parties vide settlement/compromise dated 15.03.2018 (Annexure P-4). Even the petition filed under Section 13-B of

the Hindu Marriage Act has also been allowed on 07.01.2019 and in the petition, petitioner No.4 who is husband of complainant-Nisha was represented by his attorney-Kishan Chand, who happens to be father of petitioner No.4. He refers to power of attorney executed by Jatinder Singh appointing petitioner No.2-Kishan Chand as his attorney. He states that the said attorney has duly been registered in the office of Deputy Commissioner, SBS Nagar. The said attorney is stated to have been produced during the process of recording statements of the parties before the trial court, in terms of the order dated 29.10.2018 passed by this Court.

Learned counsel for the petitioners has contended that the petitioner No.4 is living abroad and, therefore, the present petition has been filed on his behalf through Sh. Kishan Chand, who is father of petitioner No.4 and is holding a valid power of attorney. He has relied upon the order dated 01.06.2018 passed by this Court in ***CRM-M-6890 of 2013*** titled as ***Mangal Das Gautam and another Versus State of Haryana and another,*** whereby the Division Bench of this Court has held that the criminal proceedings under Section 482 of Cr.P.C. can be filed by an accused through an Attorney, but the circumstances under which it can be so filed and would be maintainable would be dependent upon various factors including facts and circumstances of that particular case, which is better left at the wisdom and discretion of the Court.

This Court vide order dated 11.09.2018 and 29.10.2018 had directed the parties to appear before the trial Court/Illaq Magistrate to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, petitioner Nos.1, 2 and 3 and

petitioner No.4 through his father Kishan Chand (petitioner No.2) as well as respondent No.2-complainant-Nisha have appeared before learned Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 16.01.2019 to the effect that the compromise so effected between the parties is genuine.

Respondent No.2-Complainant, namely, Nisha, has made a statement with regard to compromise before learned Magistrate on 07.01.2019. The same is reproduced as under:-

“Stated that, FIR No.161 dated 25.12.2017 under Section 406, 498-A, 417, 506 of IPC, PS-City Nawanshahr, Distt. SBS Nagar has been got registered by me against the accused namely Jatinder Singh s/o Kishan Chand, Kishan Chand s/o Jagar Ram, Resham Kaur w/o Kishan Chand, Manjit Kaur, d/o Kishan Chand all r/o Navi Abadi, Nawanshahr, Distt. SBS Nagar. In this case, compromise has already been effected between me and all accused persons including accused Jatinder Singh with the intervention of relatives and respectables from both sides. The compromise has been effected without any pressure, undue influence or coercion and to maintain harmony. I have made this statement voluntarily. Except me, there is no other aggrieved person in the present FIR. Copy of compromise Ex.C1 (original seen and returned). Copy of my Aadhar Card is Ex. C2 (Original seen and returned).”

Learned State counsel on instructions from ASI Pavinder Singh does not dispute the very factum of compromise between the parties.

Learned counsel for respondent No.2 fairly states that the matter has been compromised between the parties and he has no objection in case FIR/DDR's in question are quashed on the basis of compromise.

Hon'ble Supreme Court in **Gold Quest International Private Limited Versus State of Tamil Nadu and others 2014 (4) RCR (Criminal) 206** has held that the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution.

It being a matrimonial dispute and petitioner No.4-husband having authorized his father to enter into compromise, this Court finds that in the light of the observations made in ***Mangal Das Gautam's case (supra)***, continuation of the proceedings before the trial Court in the instant FIR/DDRs qua petitioner No.4 shall be an abuse of the process of law.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*** as well as the law laid down in ***Gold Quest International Private Limited's case (supra)***, the present petition is allowed. FIR No.161 dated 25.12.2017 (Annexure P-1) under Sections 498-A, 417 IPC, 1860, DDR No.15 dated 10.01.2018 (Annexure P-2) and DDR No.16 dated 11.01.2018 (Annexure P-3) (vide which the offences punishable under Sections 406, 506 IPC were added later on), registered at Police Station City Nawanshahr, District SBS Nagar, Punjab and all the consequential proceedings arising therefrom are hereby quashed qua the petitioners on the basis of compromise/settlement dated 15.03.2018 (Annexure P-4), subject to payment of costs of ₹25,000/- to be paid by the

petitioners, within a period of 15 days from today with the Poor Patients Welfare Fund, PGIMER, Chandigarh. They shall produce a receipt with the Registry.

January 21, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No