

CRM-M-3655-2018

Date of Decision:18.01.2019

Sandeep Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Kunal Dawar, Advocate, for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab for respondent No.1.

Mr. Mohd. Yousaf, 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.10 dated 02.07.2015 registered under Section 406/498A IPC at Police Station NRI, Jalandhar Rural, District Jalandhar on the basis of compromise. Challenge has also been laid to order dated 12.02.2016 (Annexure P-4) whereby petitioner No.1 has been declared as proclaimed offender.

Learned counsel for the petitioners has argued that presently both the petitioner No.1-Sandeep Singh and respondent No.2-Harvinder Kaur (complainant) are not residing in India and are settled in Australia. They have filed a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short, “the Act”) for dissolution of their marriage through their respective attorneys and vide judgement dated 11.09.2018, learned Additional District Judge, Jalandhar had passed a decree of divorce under Section 13-B of the Act. He further states that the matter has been compromised between the parties on 18.12.2017 and it is on the basis of

said compromise, the present petition has been filed for quashing of FIR.

Vide order dated 21.11.2018, this Court had directed the parties to appear before the trial Court/Illaq Magistrate on 28.11.2018 or any other date convenient to the trial Court/Illaq Magistrate to get their statements recorded regarding genuineness of the compromise. After recording their statements to send the report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party.

Learned counsel for the petitioners states that so far as the PO proceedings initiated against petitioner No.1 are concerned, on the date on which the order dated 12.02.2016 declaring him PO was passed, he was not in India and was not served in the case. Therefore, he could not appear. However, since the matter has been compromised and decree of divorce has been granted to the parties through their respective Power of Attorneys, the order dated 12.02.2016 may be set aside, particularly when petitioner No.1 was not served in the case.

Learned counsel appearing on behalf of respondent No.2 states that the matter has been compromised between the parties and accordingly respondent No.2 through her Attorney-Surjit Kaur has made a statement as regard to compromise so entered between the parties. He further states that she has no objection in case the FIR in question is quashed on the basis of compromise.

I have heard learned counsel for the parties.

Present petition seeking quashing of FIR is based on compromise between the parties. The parties have got their statements

recorded, whereas petitioner accused has appeared through his father who has been given Power of Attorney by his son Sandeep Singh and respondent No.2-complainant has appeared before the trial Court through her mother Surjit Kaur in her capacity as an attorney. The dispute between the parties is regarding entrustment of property/demand of dowry and now compromise has been arrived at between them. Moreover, the relation between the petitioner No.1 and respondent No.2-complainant has also culminated into separation when a decree of divorce under Section 13-B of the Act has been passed on 11.09.2018. The statement of respondent No.2-complainant made through her Attorney Surjit Kaur reads as under:

“Stated that criminal case vide FIR No.10 dated 02.07.2015 was registered under Section 406, 498-A IPC, PS NRI, Jalandhar against Sandeep Singh. Now, with the intervention of respectables, the matter in dispute has been compromised between me and the accused namely Sandeep Singh. The compromise dated 18.10.2017 has been effected with my free will, sound disposing mind without any pressure and without any coercion and copy of the same is Mark A and original of the same is placed before Hon'ble Punjab and Haryana High Court. Statement regarding receiving payment in the Hon'ble Court of Sh.Shatin Goyal, Ld. ASJ, Jalandhar is Mark B. I have not been declared proclaimed person/offender in any case by any competent court of law. The copy of power of attorney in favour of Surjit Kaur is Ex. C1. I produce the copy of my Identity proof i.e. passport Ex.C2. I have no objection if the present FIR be quashed on account of compromise.”

Once the matter has been resolved between the parties, this Court finds that the continuation of PO proceedings would further delay the proceeding. Therefore, in the interest of justice, the order dated 12.02.2016

whereby petitioner No.1 was declared as proclaimed offender is hereby quashed, as statedly during the relevant period, he was not in India.

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.

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 also in the light of **Gold Quest International Private Limited's case (supra)**, this petition is allowed and FIR No.10 dated 02.07.2015 registered under Section 406/498A IPC at Police Station NRI, Jalandhar Rural, District Jalandhar is quashed qua the petitioners, however, that would be subject to payment of costs of ₹30,000/- to be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh within 15 days from today.

January 18, 2019

Jyoti-IV

**(HARI PAL VERMA)
JUDGE**

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