

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(1) CRM-M-39185 of 2015 (O&M)
Decided on:- February 01, 2019.

Jaspal Singh.
.....Petitioner.
Versus
State of Punjab.
.....Respondent.

(2) CRM-M-43619 of 2015 (O&M)

Charanjit Kaur and another
.....Petitioners.
Versus
State of Punjab and others
.....Respondents.

(3) CRM-M-52793 of 2018

Jaspal Singh.
.....Petitioner.
Versus
State of Punjab and another
.....Respondents.

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

Present:- Mr. Raman Mohinder Sharma, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

This order shall dispose of the aforementioned three petitions filed by the petitioners under Section 482 Cr.P.C. as the same have arisen out of the common FIR No.298 dated 14.07.2009 under Sections 498-A and 406 IPC registered against the petitioners at Police Station Sadar Amritsar,

District Amritsar at the behest of respondent-complainant Dr. Jagjit Kaur mother of respondent Dr. Shubhkarman Kaur. Petitioner Jaspal Singh is the husband of respondent Dr. Shubhkarman Kaur, whereas petitioners Charanjit Kaur and Santokh Singh are the parents-in-law of Dr. Shubhkarman Kaur.

In the first petition i.e. *CRM-M-39185 of 2015* titled as ***Jaspal Singh Versus State of Punjab***, petitioner Jaspal Singh has sought quashing of the impugned order dated 02.06.2010 passed by learned Additional Chief Judicial Magistrate, Amritsar vide which he has been declared as proclaimed offender in the aforementioned F.I.R.

In the second petition i.e. *CRM-M-43619 of 2015* titled as ***Charanjit Kaur and another Versus State of Punjab and others***, petitioners Charanjit Kaur and Santokh Singh have prayed for quashing of the aforementioned FIR as well as order dated 23.08.2014 passed by learned Judicial Magistrate 1st Class, Amritsar, whereby they have been summoned to face trial in the aforesaid FIR through non-bailable warrants on the basis of an application under Section 319 Cr.P.C. moved by the prosecution.

In the third petition i.e. *CRM-M-52793 of 2018* titled as ***Jaspal Singh Versus State of Punjab and another***, petitioner Jaspal Singh has sought quashing of the F.I.R. in question on the basis of settlement dated 28.02.2017 took place at the Mediation and Conciliation Centre of this Court.

However, for convenience and clarity, the detailed order is being passed in the petition bearing No. *CRM-M-39185 of 2015* titled as ***Jaspal Singh Versus State of Punjab***.

Learned counsel for the petitioners has argued that on the joint request of the parties, the matter was referred to the Mediation and Conciliation Centre of this Court to explore possibility of an amicable settlement vide order dated 07.02.2017 passed by this Court. Accordingly, the matter has been resolved between the parties during the mediation proceedings which took place before the Mediation and Conciliation Centre of this Court on 28.02.2017. He has referred to the terms and conditions as mentioned in paragraph No.8 of the settlement so arrived at between the parties, which reads as under:

“8. The following settlement has been arrived at between the parties hereto:

- a) It is mutually agreed between the parties that the first party shall make an FDR of Rs.7,00,000/- in the name of Reet Uppal (minor daughter) for a lock-in period of 9 years and the same shall be encashed only after she attains majority, with guardian as mother. The same FDR shall be handed over in Court on the date already fixed i.e. 26.05.2017. There is no dispute with regard to gold items as the same stood settled between the parties.*
- b) It has been mutually agreed by both the parties that the custody of the minor daughter Reet Uppal would remain with the mother Shubhkarman Kaur for all times to come. There will be no visitation right with the first party and their son Jaspal Singh who is living in Australia.*
- c) It has been mutually agreed that the second party will not oppose if the PO proceedings against Jaspal Singh are quashed/ dropped. Once the PO proceedings are quashed*

or stayed then it has been agreed by the first party that their son Jaspal Singh will travel down to India once the passport of Jaspal Singh which has already been impounded by the Indian Embassy at Australia due to the above said PO order, will be released to him. Moreover, the second party shall have no objection if the present FIR No.298 registered against the first party and their son be quashed in view of the present compromise and the second party shall personally appear in the Court and will suffer a statement to that effect. It is further agreed between the parties that if there will be a requirement by the Court, the daughter of the second party namely Shubhkarman will appear before the Court to make the statement with regard to the said compromise or in the alternative she can file the affidavit with regard to the same.

- d) The second party has agreed that she will withdraw her private complaint filed by her at Amritsar which is clubbed with the FIR case on the date fixed by moving an appropriate application.*
- e) It is further agreed that the first party will not create any hindrance if their grand-daughter Reet Uppal travels to Australia, however, since they have no control over the State action, the second party will be at liberty to explain the situation to the appropriate Authorities at Australia and can take help of present compromise in settling the things in Australia.*
- f) It is agreed between the parties that second party or her daughter Shubhkarman Kaur will not file any case claiming maintenance or other benefits from Jaspal Singh in Australia.*

- g) *Apart from the above said pending litigation as per the knowledge of the parties, if any litigation/complaint/case which do not find mentioned in the present settlement the same shall also be withdrawn by the parties who have filed it.*
- h) *That the terms of settlement shall be binding on both the parties as well as all the family members of both the parties. After the present settlement there is no claim left against the first party by the second party.”*

Learned counsel for the petitioners has further contended that in terms of paragraph No.8 (a) of the aforesaid settlement dated 28.02.2017, the petitioner-husband has given a bank draft for an amount of Rs.7,00,000/- in the name of Manveen Kaur @ Reet Uppal, who is daughter of petitioner-husband Jaspal Singh and respondent-wife Dr. Shubhkarman Kaur. He states that there is a clear recital in the settlement that the respondent-complainant shall not oppose the proceedings vide which petitioner Jaspal Singh was declared as a proclaimed offender if the said proceedings are quashed/withdrawn giving a path for petitioner Jaspal Singh to travel down to India on release of passport which has otherwise been impounded by the Indian Embassy in Australia on account of the PO order. The settlement dated 28.02.2017 has duly been signed by petitioners Charanjit Kaur and Santokh Singh as first party and complainant Dr. Jagjit Kaur as second party.

On the other hand, learned State counsel does not dispute the factum of compromise arrived at between the parties.

Though no one has put in appearance on behalf of the respondents-complainant, but as the matter has already been settled between

the parties before the Mediation and Conciliation Centre of this Court on 28.02.2017, this Court finds that continuation of the proceedings before the trial Court in the instant FIR qua the petitioners shall be an abuse of the process of law.

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.

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 FIR No.298 dated 14.07.2009 under Sections 498-A and 406 IPC registered against the petitioners at Police Station Sadar Amritsar, District Amritsar and all consequential proceedings arising therefrom are quashed qua the petitioners, namely, Jaspal Singh, Charanjit Kaur and Santokh Singh on the basis of settlement/compromise dated 28.02.2017 arrived at between the parties before the Mediation and Conciliation Centre of this Court, however, subject to payment of consolidated cost of Rs.50,000/- to the Poor Patients' Welfare Fund of the

Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh, which shall be paid by the petitioners within a period of 30 days from today.

Consequently, the impugned order dated 02.06.2010 passed by learned Additional Chief Judicial Magistrate, Amritsar, whereby petitioner Jaspal Singh has been declared as proclaimed offender and the impugned order dated 23.08.2014 passed by learned Judicial Magistrate 1st Class, Amritsar, whereby petitioners Charanjit Kaur and Santokh Singh have been summoned to face trial through non-bailable warrants on the basis of an application under Section 319 Cr.P.C. in the aforementioned F.I.R. are also set aside.

Accordingly, all these three petitions stand allowed.

Photocopy of this order be placed on the files of other connected cases.

February 01, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No