

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

CRM-M-9623-2020
Date of decision: 16.11.2020

Sandeep Kumar and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Harkirat Singh Bhogal, Advocate for the Petitioners.
Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.
Mr. Satinderpal Singh, Advocate, for respondents No.2 & 3.
*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court.)*

ARUN PALLI, J. (Oral)

Vide this petition under Section 482 of the Criminal Procedure Code, the petitioners, who happened to be the husband, mother-in-law and father-in-law of respondent No.2 (Aarti), pray for quashing FIR No.225, dated 28.10.2016, under Sections 498-A, 406 & 120-B of the Indian Penal Code, registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib. For, the dispute between the parties stands resolved and a compromise dated 16.12.2019 (Annexure P-2) in this regard has since been executed:

“1. That the marriage was solemnized between the Party of the First Part and the Party of the Second Part on 30.01.2015 at Patiala according to Hindu Rites and Ceremonies.

2. That after the marriage, the parties to this compromise lived and cohabited together as husband

and wife at Mandi Gobindgarh, district Fatehgarh Sahib and one daughter namely Priya was born on 05.12.2015 out of the wedlock who is presently in the care and custody of petitioner No.2.

3. That after the marriage, the petitioners could not adjust with each other due to temperamental differences and due to the facts that both the parties were brought up altogether in different atmospheres. Even the efforts made by the elders and common relations failed and could not bring any fruitful result.

4. That the parties are residing separately from each other since 23.07.2016.

5. That now with the intervention of the relations, respectable and well wishers of both the parties, the parties have decided to get their marriage dissolved by a decree of divorce by mutual consent as there is no scope left for any reconciliation and rehabilitation between the petitioners for all times to come in future.

6. That the claim of the Party of the First Part for past, present and future maintenance and permanent alimony towards full and final settlement have been settled and now nothing is to be received by the Party of the First Part from the Party of the Second Part and his parents.

7. That it has been settled that both the parties shall file a petition under Section 13-B of the Hindu Marriage Act, in Family Court at Ludhiana. As per the settlement, the Party of the Second Part will pay a sum of Rs.5,00,000/- towards permanent alimony past, present and future and in lieu of all dowry articles. Out of the aforesaid amount of Rs.5,00,000/-, a sum of Rs.2,50,000/- shall be paid by the Party of the Second Part to the Party of the First Part at the time of first motion statement in court. The remaining amount of Rs.2,50,000/- shall be paid by the petitioner

No.2 to the petitioner No.1 at the time of second motion statement in court.

8. That it has been agreed between the parties that the daughter namely Priya who was born on 05.12.2015, shall remain in the care and custody of the Party of the Second Part and the Party of the First Part shall never claim her custody in future.

9. That it is undertaken by the Party of the First Part that she will be bound to withdraw the petition under Section 12 D.V. Act pending in the court of Ms. Ankita Loomba, J.M.I.C., Ludhiana and fixed for 31.01.2020 as well as the execution filed by the petitioner No.1 pending in the court of Principal Judge, Family Court, Ludhiana fixed for 18.02.2020 and on criminal case F.I.R. No.225/16 u/s 406, 498-A, 120-B IPC, PS Mandi Gobindgarh, which is pending in the court of Sh. Ashish Thathai, S.D.J.M., Amloh against the Party of the Second Part and his mother and father and is fixed for 15.01.2020.”

Accordingly, pursuant to an order dated 06.11.2020, passed by this Court, the Illaqa Magistrate/trial Court, after recording the statements of the parties qua the execution and veracity of the alleged compromise, was required to submit a report. The report dated 10.11.2020 has since been furnished by the Sub Divisional Judicial Magistrate, Amloh:

“...The answers to queries of order dated 4.3.2020 passed by the Hon’ble high Court are that compromise between the parties is genuine and valid. As per the court file pending in the court of undersigned, none of the accused involved in this case has been declared proclaimed offender and no PO proceedings are pending against any of the party.”

The Court has also been informed that in terms of the compromise dated 16.12.2019, the parties have even filed a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage and the proceedings are in progress.

Learned counsel for the respondents submit that in the given circumstances, they have no objection if the FIR in question is quashed.

In the wake of the above, it would be apposite to refer to the observations recorded by the Supreme Court in **Madan Mohan Abbot v. State of Punjab, 2008(4) SCC 582**; *wherein it was held that in disputes where the question involved is of a purely personal in nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings for keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford*, no useful purpose would be served in continuing with the proceedings:

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004,

passed away and the possibility of a conviction being recorded has thus to be ruled out. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs.250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No.155 dated 17th November 2001 P.S. Kotwali, Amritsar and all proceedings connected therewith shall be deemed to be quashed.”

Likewise, the Supreme Court even in Gian Singh v. State of Punjab & Anr., 2012(10) SCC 303, held that where offences are purely private in nature and do not concern public policy, the power to quash proceedings involving non-compoundable offences on the basis of compromise can be exercised.

On conspectus of the position as indicated above, and the position of law expounded by the Supreme Court in Madan Mohan Abbot and Gian Singh (supra), the petition is allowed. Accordingly, FIR No.225,

dated 28.10.2016, under Sections 498-A, 406 & 120-B of the Indian Penal Code, registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib and all subsequent proceedings arising therefrom are quashed.

16.11.2020
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:	YES
Whether Reportable:	NO