

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

CRM-M-11910 of 2019.

Decided on:- November 17, 2020.

Sarabjit Singh and others

.....Petitioners.

Versus

State of Punjab and another

.....Respondents.

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

Present:- Mr. Sanjeev Kumar Arora, Advocate
for the petitioners.

Mr. Prabhjot Singh Walia, A.A.G., Punjab.

Mr. Karanjeet Singh Brar, Advocate
for respondent No.2.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of FIR No.181 dated 19.08.2017 under Sections 498-A, 323, 342 and 506 read with Section 34 IPC registered at Police Station Dharamkot, District Moga (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise deed dated 19.12.2018 (Annexure P-3).

This Court vide order dated 14.03.2019 had directed the parties to appear before the Illaqa Magistrate/Duty Magistrate/trial Court to get their

respective statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise before the next date of hearing i.e. 11.04.2019.

Thereafter, vide order dated 16.05.2019 passed by this Court, one more opportunity was granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

On January 15, 2020 when this case was listed before this Court, learned counsel for the petitioners had stated that it is because of some differences between the parties, though the petitioners No.2 and 3 had appeared before the trial Court in individual capacity as well as special attorney on behalf of petitioners No.1 and 4, namely, Sarabjit Singh and Navjot Kaur on 08.07.2019, but the respondent No.2-complainant did not appear there so as to make her statement in support of compromise.

Accordingly, one more opportunity was granted to the parties to get their statements recorded and they are directed to appear before the Illaqa Magistrate/trial Court on 28.01.2020 for getting their statements recorded in support of compromise and the case was adjourned to 07.02.2020.

On 07.02.2020, learned counsel for the petitioners stated that despite there being order dated 15.01.2020 passed by this Court and the complainant having received a sum of Rs.17,00,000/- in terms of the compromise, the complainant is not coming forward to get her statement recorded. Accordingly, the parties, specifically the complainant, were directed to appear before the trial Court on 04.03.2020.

Pursuant to the aforesaid order dated 07.02.2020 passed by this Court, the petitioner No.3 Balwinder Kaur, respondent No.2-complainant

Bhawjovan Shergill and petitioner No.2 Jasjit Singh Ghumman in his individual capacity as well as being special power of attorney on behalf of petitioners No.1 and 4, namely, Sarabjit Singh and Navjot Kaur had appeared before learned Judicial Magistrate 1st Class, Moga and got their statements recorded on 04.03.2020. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 01.05.2020 with regard to the compromise effected between the parties.

The FIR in question has been recorded on the basis of statement of respondent No.2-complainant Bhawjovan Shergill. She has already made a statement before learned Magistrate in support of the compromise on 04.03.2020, which reads as under:

“It is stated that I am the complainant in the present case arising out of FIR No.181 dated 19.08.2017 under Sections 498A, 323, 342, 506, 34 IPC of Indian Penal Code registered with Police Station Dharamkot, District Moga against Sarabjit Singh son of Jasjit Singh Ghumman, Jasjit Singh Ghumman son of Amarjit Singh, Balwinder Kaur wife of Jasjit Singh Ghumman and Navjot Kaur d/o Jasjit Singh Ghumman all resident of VPO Kaila near Gurudwara Sahib, Tehsil Dharamkot, District Moga. The matter in dispute has been compromised amicably with the intervention of the respectable of society and common relatives. I have made compromise with the said accused by my free sweet will and without any threat, pressure or coercion. I have already received an amount of Rs.17 lac in view of the said compromise during the hearing of our petition u/s 13 B HMA and even our marriage has been dissolved by way of decree dated 03.12.2019 passed by the Court of Sh. Harish Anand Addl. Principal Judge, Family Court, Patiala. Photo copy of said judgment and decree dated 03.12.2019 are mark I and J already on the file. I have

already made the payment of costs of Rs.5,000/- as per the directions of Hon'ble High Court of Punjab & Haryana High Court vide order dated 07.02.2020. photo copy of receipt dated 02.03.2020 of said amount is Mark 1. I have no objection if petition under Section 482 Cr.P.C filed by above said accused in the Hon'ble Punjab and Haryana High Court is allowed and present FIR be quashed."

Learned counsel for the petitioners submits that pursuant to the compromise entered between the parties, an amount of Rs.17 lakh has been paid to respondent No.2-complainant. Even the marriage between petitioner No.1 and respondent No.2 has been dissolved under Section 13-B of the Hindu Marriage Act, 1955.

This fact has not been denied by learned counsel for respondent No.2-complainant.

Learned State counsel has also not disputed the factum of compromise between the parties.

Considering the fact that the present is a matrimonial dispute between the parties and the matter has been compromised between them, this Court finds that there is no impediment in quashing of the FIR in question qua the petitioners. In fact, 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 present petition is allowed and the FIR No.181 dated 19.08.2017 under Sections 498-A, 323, 342 and 506 read with Section 34 IPC registered at Police Station Dharamkot, District Moga (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioners on the basis of compromise deed dated 19.12.2018 (Annexure P-3), however, subject to payment of costs of Rs.25,000/- to be deposited by the petitioners with the Bar Association of this Court within a period of one month from today.

November 17, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No