

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(259)

CRM-M-5030-2021
Date of Decision:- 07.09.2022

Saroj Rani and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ranjeet Kumar Jaswal, Advocate
Legal Aid Counsel for the petitioners.

Mr. Vipin Kumar Yadav, Addl. A.G., Punjab
for State-respondent No.1.

Mr. Himani, Advocate for
Mr. Pooja Arora, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”) for quashing of FIR No.4 dated 25.07.2015, registered for offences under Sections 498-A and 406 of the Indian Penal Code, 1860, at Police Station NRI, Kapurthala, District Kapurthala, Annexure P-1, along with all subsequent proceedings arising therefrom including order dated 16.01.2018, Annexure P-4, passed by learned Additional Chief Judicial Magistrate, Kapurthala, whereby petitioner No.2 has been declared as a proclaimed offender, on the basis of compromise dated 16.12.2020, Annexure P-6, arrived at between the parties.

Counsel for the petitioners submits that petitioner No.1 is the mother-in-law and petitioner No.2 is the husband of complainant-respondent No.2. He submits that marriage of petitioner No.2 was solemnized with complainant-respondent No.2 on 13.12.2013 at Kapurthala and there is no issue out of the wedlock. He submits that within a few days after the marriage, petitioner No.2 left for Austria and came to India for a short visit in November, 2014 when his father expired. By referring to the passport, Annexure P-5, counsel submits that petitioner No.2 departed from India on 27.11.2014 . He contends that FIR, Annexure P-1, has been lodged by the complainant in his absence and no attempt was made to serve him through the Ministry of External Affairs. By referring to the orders, Annexures P-3 and P-4, passed by the Trial court, counsel submits that a clear 30 days notice was not given after the proclamation was effected. It is his arguments that the mandate of Section 82 of the Code has been violated. Still further, he submits that matrimonial dispute has been settled by virtue of compromise, Annexure P-2, marriage has been dissolved by ex-parte judgment and decree dated 21.03.2018, Annexure A-5, which has become final. Counsel submits that the entire permanent alimony of Rs.5 lacs has been paid to the complainant-respondent No.2.

Upon instructions received from ASI, Gurmail, State counsel submits that petitioner No.2 was declared as a proclaimed offender vide order dated 16.01.2018, Annexure P-4, and challan against petitioner No.1 was presented, who is facing trial.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise and has supported the prayer made in the petition.

Heard counsel for the parties.

Vide order dated 03.02.2021, this Court directed the parties to appear before the Area Magistrate for getting their statements recorded in support of the compromise. A report was called for regarding the validity and genuineness of the compromise, antecedent behaviour of the accused as well as regarding other details of the criminal case pending against them.

Report has been received and its relevant extract is as under:-

“In this case FIR No.04 of 25.07.2015, under Section 498-A/406 IPC, P.S. NRI, Kapurthala, the statement of Richa Arya and accused Saroj Rani & Gopal Mehra (through VC) as well as statement of IO/Inspector Sarabjit Kaur No.628/kpt, ASI Dara Singh, No.1411/GSP as well as statement of SHO Amit Sandhu No.63/PAP have also been recorded. Two persons namely Gopal Mehra and Saroj Rani arrayed as accused in the FIR. As per the statement of Sh. Amit Sandhu No.63/PAP, SHO, PS NRI, Kapurthala, accused no.1 Gopal Mehra son of Jagdish Lal, R/o House No.143, Harnamsdasspura, District Jalandhar at present is in Austria and he was declared PO vide order dated 16.01.2018 by the Court. Another accused Saroj Rani wife of Jagdish Lal, R/o House No.143, Harnamsdasspura, District Jalandhar is facing trial in this case. One another person Gulshan Mehra was also found accused in this case but thereafter, the enquiry was conducted by the AIEG, NRI and Gulshan Mehra was found innocent in this case and further that no other FIR has been registered against the above-said accused. It is clear from the statement of complainant Richa Arya and accused Saroj Rani & Gopal Mehra (through VC) that they have entered into compromise and solved their differences, without any coercion, pressure, threat or undue influence. As such, it is clear that complainant Ricya (sic Richa) Arya and accused Saroj Rani & Gopal Mehra (through VC) have entered into compromise voluntarily and the compromise is genuine. The report is accordingly submitted please.”

From the above, it is apparent that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been amicably settled. Although, the petitioner No.2 has been declared as a proclaimed offender vide order, Annexure P-4, but it is clear that proclamation was effected on 08.12.2017 for 11.12.2017 when the Trial Court adjourned the proceedings to the next date for completion of the stipulated period of 30 days.

In view of judgment of this Court passed in **CRM-M-48457-2021** titled ***“Gurpreet Singh Versus State of Punjab”***, decided on 16.05.2022 as the mandatory period of 30 days had not elapsed, the order declaring petitioner No.2 as a proclaimed offender cannot be sustained. Moreover, considering the fact that the dispute has been compromised, this Court is of the view that keeping the criminal proceedings alive would be a futile exercise.

Petition is allowed.

In the net result, impugned order dated 16.01.2018, Annexure P-4 as well as FIR No.4 dated 25.07.2015, registered for offences under Sections 498-A and 406 of the Indian Penal Code, 1860, at Police Station NRI, Kapurthala, District Kapurthala, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

07.09.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No