

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

CRM-M-5843-2020

Date of Decision: February 28, 2022

Rajan Saini and others

.... Petitioners

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Parveen Gaur, Advocate,
for the petitioners.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Mr. Deepak Kundu, Advocate,
for respondent no.2.

Vivek Puri, J.

CRM-124-2022

This is an application for pre-ponement of the main case.

Notice in the application.

Mr. Zorawar Singh Chauhan, Deputy Advocate General,
Haryana, accepts notice on behalf of respondent-State and Mr. Deepak
Kundu, Advocate, accepts notice on behalf of respondent No.2.

By recording no objection by the learned counsel for the
respondents, the main case be taken up on the Board today itself.

Application stands disposed of.

CRM-M-5843-2020

The petitioners have approached this Court by way of instant petition under Sections 482 of the Code of Criminal Procedure invoking the inherent jurisdiction for quashing the FIR No. 782, dated 01.09.2017, under Sections 323, 354-A, 377, 498-A and 506 of the Indian Penal Code (Section 354-A IPC has been deleted during investigation and Section 406 IPC has been added later on), registered at Police Station Thanesar City, District Kurukshetra and subsequent proceedings arising therefrom on the basis of the compromise dated 03.02.2020.

On 10.02.2020, the parties were directed to appear before the learned trial Court/Illaqa Magistrate to get recorded their statements regarding compromise and it was further directed that after recording their statements, the learned trial Court/Illaqa Magistrate shall send a report regarding the genuineness of the compromise and also to intimate whether any PO proceedings are pending against any of the party. Petitioner no.1 was permitted to get the statement recorded through the Special Power of Attorney i.e. his father.

In compliance of the order dated 10.02.2020, the learned Chief Judicial Magistrate, Kurukshetra has sent the following report:-

“In compliance of order dated 10.02.2020 passed by the Hon’ble Punjab & Haryana High Court in Crl. Misc. No. M-5843 of 2020, the parties have appeared before the undersigned on 06.03.2020 for getting recorded their respective statements.

2. Thereafter complainant and accused persons have got recorded their statements separately. The complainant has made a statement that the FIR in question was lodged by her against her husband Rajan

Saini, mother in law Rama Saini, father in law Shiv Ram Saini, brother in law Lavneesh Saini and sister in law Suman. The matter has now been compromised between her and the accused persons with the intervention of Panchayat and respectable persons of their family by virtue of compromise deed Ex.C1. She has no objection, if the FIR in question as registered against the accused persons is quashed. She further stated that the compromise has been effected by her voluntarily without any pressure, coercion or undue influence.

3. *The accused persons have also made a similar joint statement stating that the present FIR has been lodged against them by complainant Shikha Saini. The matter has now been compromised between them and the complainant with the intervention of Panchayat and respectable persons of their family. Compromise deed is Ex.C1. They also stated that the compromise has been effected by them voluntarily without any pressure, coercion or undue influence. They prayed that the FIR in question may kindly be quashed.*

4. *In compliance of aforesaid order of the Honb'ble High Court, the Investigation Officers of the case in hand were also summoned, whereby I.O. namely ASI Taro No. 150/KKR appeared before the Court and suffered a statement to the effect that the investigation of the present case was conducted by her. She had joined the accused persons namely Shiv Ram Saini, Rama Saini, Lavneesh Saini and Suman only in the investigation of the present case. She had got issued the warrant of arrest against accused Rajan Saini and after that, she had been transferred. Thereafter, the another I.O. namely SI Anil Kumar NO.116/KKR appeared and made statement that he had conducted the investigation qua accused Rajan Saini only. The said accused was declared proclaimed*

person vide order dated 27.08.2019 passed by Shri Amit Kumar Grover, the then learned CJM, Kurukshetra. Thereafter, P.O. challan regarding accused Rajan Saini was filed by him before the Court. He further stated that during his investigation, except for accused Rajan Saini, no other P.O. proceedings were initiated against any other accused persons or the complainant.

5. *I have also personally satisfied myself that the FIR was lodged by the complainant against the above named accused persons but now the matter has been compromised between them amicably without any coercion, undue influence or pressure and the complainant has no objection in case the present FIR against the accused persons is quashed.*

6. *It is further reported that as per the judicial case file and statement of Investigating Officer, the accused namely Rajan Saini has been declared proclaimed person vide order dated 27.08.2019 passed by Shri Amit Kumar Grover, the then learned CJM, Kurukshetra. It is pertinent to mention herin that accused Rajan Saini, as per information supplied to the undersigned, has been residing abroad in Australia and has appeared before this Court through his SPA holder namely Shiv Ram Saini, who is co-accused in the present case and is father of Rajan Saini.”*

The report is indicative of the fact that the petitioner no.1 has been declared as Proclaimed Offender and his statement has been recorded through his attorney i.e. his father (petitioner No.2). The petitioner no.1 has been declared as proclaimed offender in terms of the order dated 27.08.2019 (Annexure P/2) and the quashing thereof has also been sought in the present proceedings. It has been stated on behalf of the

petitioners that no prosecution under Section 174-A of the Indian Penal Code has been initiated against the petitioner no.1.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the private parties have arrived at a settlement, out of court, by way of compromise dated 03.02.2020 (Annexure P/3). The compromise is without any pressure and is genuine one.

Although, the petitioner no.1 has been declared as proclaimed offender, but it cannot be said that the powers to quash the prosecution is limited only to the matrimonial dispute alone and the same cannot be invoked to set aside the order declaring the petitioner to be proclaimed offender, in the event, the same are required to be exercised to achieve ends of justice and prevent the abuse of process of law. It may be true that the inherent powers under Section 482 Cr.P.C. cannot be exercised to quash the criminal proceedings where the offence is heinous in nature, but in the event, the matter is overwhelmingly and predominantly of civil nature and particularly arising out of matrimonial dispute, it shall be appropriate to quash the FIR and the entire subsequent proceedings to put a quietus to the matter. The controversy in the instant case does not indicate that the same involves heinous or serious offences and furthermore, the matrimonial dispute has been sought to be amicably settled. Consequently, a deserving case is made out where the court should exercise the power to secure the ends of justice. With the amicable settlement effected between the parties, the chances of conviction of the

petitioners are remote and minimal. Although the petitioner has been declared as proclaimed offender but keeping in view the fact that an amicable settlement has been effected, the entire subsequent proceedings which have arisen out of matrimonial dispute should come to an end by exercising inherent powers of this Court in order to secure the ends of justice. In such a situation, the continuation of prosecution would result in sheer abuse of process of law.

The compromise has been voluntarily effected between the parties and they are stated to be residing separately and peacefully.

Learned counsel for the petitioners and respondent no.2 are *ad idem* that the matrimonial dispute has been amicably settled between the parties. Their marriage has been dissolved by a decree of divorce by mutual consent and thereafter, the respondent no.2 has re-married.

For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6)SCC 466**.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 782, dated 01.09.2017, under Sections 323, 354-A, 377, 498-A and 506 of the Indian Penal Code (Section 354-A IPC has been deleted during investigation and Section 406 IPC has been added later on), registered at Police Station Thanesar City, District Kurukshetra and subsequent proceedings arising therefrom including the order dated 27.08.2019 passed by the learned Chief Judicial Magistrate, Kurukshetra

vide which the petitioner no.1 has been declared as proclaimed offender,
are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the
instant petition stands allowed.

February 28, 2022
vkd

[Vivek Puri]
Judge

Whether reasonable / speaking : Yes / No
Whether reportable : Yes / No