

287 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7182-2020
Date of Decision: 28.09.2022

SURNAIL KHAN AND OTHERS ... PETITIONERS

V/S

STATE OF PUNJAB AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Mandeep Kumar Dhot, Advocate for the petitioners.

Mr. Hittan Nehra, Addl. A.G. Punjab.

Ms. Aarti Pandit, Advocate for
Ms. Harjeet Kaur, Advocate for respondent No.2.

* * *

VIVEK PURI, J. (ORAL)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No. 56 dated 05.05.2017 registered under Section 406, 498-A of the Indian Penal Code at Police Station Nangal, District Rupnagar and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

On 17.02.2020, the parties were directed to appear before the Trial Court and get their statements recorded with regard to the compromise arrived at between them. The Trial Court was directed to record the statements of all the concerned and send its report regarding genuineness of the compromise.

In compliance of the order dated 17.02.2020, learned Sub Divisional Judicial Magistrate, Nangal has recorded the statements of the

parties and submitted the report, the relevant para whereof reads as under:-

“As per directions of Hon'ble High Court, complainant/respondent Suriya wife of Surnail Khan and accused/petitioners Surnail Khan S/o Sher Mohammad @ Sher Khan, Sher Mohammad @ Sher Khan S/o Railu Ram and Mamta W/o Sher Mohammad @ Sher Khan appeared on 04.03.2020 for getting their statements recorded with regard to the compromise.

Complainant Suriya suffered statement in the Court to the effect that the FIR No.56 dated 05.05.2017 U/S 406, 498-A IPC was registered at PS Nangal against the accused Surnail Khan i.e. her husband, accused Sher Mohammad @ Sher Khan her father-in-law, accused Mamta her mother-in-law at her instance. After registration of FIR, a compromise has been effected voluntarily with all the accused and she has amicably part her ways and as per the compromise she has dissolved her marriage with her husband Surnail Khan and she has also withdrawn all the pending matrimonial cases such as petition under Section 125 Cr.P.C., petition under Section 128 Cr.P.C., as well as petition under DV Act as per compromise. Now there is no dispute of any kind between her and accused. The aforesaid compromise Ex.C1 has been effected with the intervention of respectables and relatives. She has compromised the matter out of her own sweet will and without any inducement threat and coercion from any quarter. There is no other victim except herself in this case and there is no other accused except above said accused Surnail Khan, Sher Mohammad @ Sher Khan and Mamta present in the court. All the above-mentioned accused have preferred CRM No.7182 of 2020 before the Hon'ble Punjab and Haryana High Court on the basis of aforesaid compromise seeking quashing of aforesaid FIR and subsequent proceedings thereto. As per compromise she has received the remaining amount of lump sum maintenance for past, present and future of Rs.1,25,000/- through cheque bearing No. 789602 dated 25.03.2020 and she has already received the reaming amount of settled maintenance i.e. Rs. 1,25,000/- through cheque from the accused at the time of filing the above-said CRM-M before the Hon'ble Punjab and Haryana High Court. She has no objection if the above said FIR is quashed. Copy of her Aadhar card is Ex. C2.

Accused, Surnail Khan son of Sher

Mohammad @ Sher Khan, Sher Mohammad @ Sher Khan son of Railu Ram and Mamta wife of Sher Mohammad @ Sher Khan, all R/o Vill. Panjawaar, Teh. Haroli & Distt. Una (HP) recorded their statement while stating that present FIR No.56 dated 05.05.2017 U/S 406, 498-A IPC was registered at PS Nangal against all of them, at the instance of complainant Suriya wife of Surnail Khan, R/o Vill. Panjawaar, Teh. Haroli & Distt. Una (HP) at present residing with her father Bashir Khan son of Labhu Khan resident of Vill. Chhotewal, Teh. Nangal, Distt. Rupnagar. After registration of FIR the complainant, victim/complainant has effected compromise with them and they have settled all our grudges. The compromise has been effected with the intervention of respectables and relatives of the society. The compromise is Ex.C1 and their Adhaar Card respectively Ex.C3 to Ex.C5. They have today paid remaining amount of settlement of maintenance Rs.1,25,000/- through cheque bearing No. 789602 dated 25.03.2020. Same was issued by Amir Khan who is the real brother of Surnail Khan.

So, accordingly, this Court is of the view that the compromise is genuine and the parties have entered into compromise voluntarily, without any undue influence, pressure and coercion from any side. It is further submitted that as per statement of ASI Narinder Singh that an FIR No.56 dated 05.05.2017 U/S 406, 498-A IPC was lodged at PS Nangal on the complaint of complainant namely Suriya D/O Bashir Khan R/O Vill. Chhottewal PS Nangal Distt. Rupnagar. He has brought the Investigating file today in the court. Complainant Suriya D/O Bashir Khan R/O Vill. Chhottewal PS Nangal Distt. Rupnagar is the complainant in the present FIR and there is no other complainant in the present case except complainant Suriya D/O Bashir Khan R/O Vill. Chhottewal PS Nangal Distt. Rupnagar. The FIR has been registered against Surnail Khan son of Sher Mohammad @ Sher Khan, Sher Mohammad @ Sher Khan son of Railu Ram and Mamta wife of Sher Mohammad @ Sher Khan, all R/o Vill. Panjawaar, Teh. Haroli & Distt. Una (HP). All the accused persons have joined the investigation. No person/accused has been got declared proclaimed offender in this case till date. The investigation is under progress and the challan in this case has been presented.”

Learned counsel for the petitioners contend that marriage of

petitioner No.1 was solemnized with respondent No.2 on 06.04.2014 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise, Annexure P-2. The marriage of petitioner No.1 and respondent No.2 has been dissolved. The respondent No.2 has withdrawn the petitions under Section 125 of Cr.P.C., 128 of Cr.P.C. and Protection of Women from Domestic Violence Act. A sum of Rs. 2,50,000/- has been paid to respondent No.2 on account of permanent alimony. No other case is pending between the parties.

Learned counsel for respondent No.2 has acknowledged this fact and has stated that she has no objection if the aforementioned FIR is quashed.

After hearing 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 parties have arrived at a settlement, out of the Court, by way of compromise (Annexure P-2). The compromise is without any pressure and is a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

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.

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*.

Accordingly, the present petition is allowed and FIR No. 56 dated 05.05.2017 registered under Section 406, 498-A of the Indian Penal Code at Police Station Nangal, District Rupnagar and all the consequential proceedings arising therefrom are quashed qua the petitioners only.

28.09.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No