

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

CRM-M-8388-2020

Date of Decision: *November 14, 2022*

Gurjit Singh Dhillon and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sarju Puri, Advocate,
for the petitioners.

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

Mr. Veneet Thakur, Advocate,
for Mr. B.S. Seemar, Advocate,
for respondent no.2.

Vivek Puri, J.

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. 5, dated 08.04.2012, under Sections 498-A, 406 of the Indian Penal Code, registered at Police Station Women Cell, Bathinda, District Bathinda and subsequent proceedings arising therefrom including the impugned order dated 02.09.2013 passed by the Court of learned Judicial Magistrate First Class, Bathinda, vide which the petitioners have been declared as proclaimed offenders, on the basis of the compromise dated 06.12.2019 (Annexure P-4).

On 04.08.2021, the parties were directed to appear

before the learned trial Court/Illaq Magistrate to get recorded their statements regarding compromise and it was further directed that after recording their statements, the learned trial Court/Illaq Magistrate shall send a report with regard to the validity or otherwise of the compromise so effected between the parties.

In compliance of the order dated 04.08.2021, the learned Judicial Magistrate First Class, Bathinda has recorded the statements of the parties and submitted the report, the relevant portion whereof reads as under:-

“1. It is respectfully submitted that earlier challan was presented. Accused namely Gurjit Singh Dhillon, Amarjit Kaur Dhillon and Gurmail Singh were declared proclaimed offender and evidence was recorded under Section 299 of Cr.P.C. Thereafter, the said case bearing no. CHI 520-2015 was ordered to be consigned to record room vide order dated 23.11.2015. As per record, there is one complainant namely Amandeep Kaur and there are total three accused namely Gurjit Singh Dhillon, Amarjit Kaur Dhillon and Gurmail Singh Dhillon in the present FIR. Balbir Singh, Special attorney of accused persons namely Gurjit Singh Dhillon, Amarjit Kaur Dhillon and Gurmail Singh Dhillon appeared before the court and recorded his statement in support of the compromise so effected between the complainant and accused. The accused themselves did not appear in person rather their special attorney appeared before this court today i.e. 17.08.2021.

2. *It is submitted that all accused have been declared proclaimed offender in present case.*

3. *The case bearing no. CHI 520 of 2015 has already consigned to the record room after evidence under section 299 Cr.P.C. On 23.11.2015 as accused persons namely Gurjit Singh Dhillon, Amarjit Kaur Dhillon and Gurmail Singh were declared proclaimed offender.*

4. *In view of statements given by the parties, this Court is of the considered opinion that compromise effected between parties is genuine and it is effected voluntarily, without any pressure, coercion or undue influence from any quarter.”*

The report is indicative of the fact that the petitioners have been declared as Proclaimed Offenders and their statements have been recorded through their attorney i.e. Balbir Singh. The petitioners have been declared as proclaimed offenders in terms of the order dated 02.09.2013 (Annexure P/2) and the quashing thereof has also been sought in the present proceedings.

Learned counsel for the petitioners contend that the marriage of petitioner no.1 was solemnized with the respondent no.2 on 21.02.2010, but no child has been born from the wedlock. Even Kulvir Kaur @ Veero, the sister of the petitioner no.1 was arraigned as an accused, but the FIR quashed has been quashed in terms of the order dated 27.03.2015 passed in CRM-M-40662-2012. The matrimonial dispute has been amicably settled between the parties in terms of the

compromise (Annexure P-4). The petitioner no.1 has paid a sum of Rs. 13 lakhs to the respondent no.2 on account of permanent alimony. The marriage of the petitioner no.1 and the respondent no.2 has been dissolved by decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act in terms of the judgment and decree dated 06.07.2020 passed by the Court of learned Principal Judge, Family Court, Hoshiarpur. No other case is pending between the parties. The petitioners have been declared as proclaimed offenders in terms of the order dated 02.09.2013. It has been further submitted that during the relevant period, the petitioners were residing abroad.

Although, the petitioners have been declared as proclaimed offenders, but it cannot be said that the power 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 petitioners to be proclaimed offenders, in the event, the same is required to be exercised to achieve ends of justice and prevent the abuse of process of law. It may be true that the inherent power 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 pre-dominantly 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 petitioners have been declared as proclaimed offenders 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 power 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. The marriage of the petitioner no.1 and the respondent no.2 has been dissolved by a decree of divorce by mutual consent and no other case is pending between the parties. Even the entire claim of the respondent no.2 for permanent alimony has been settled.

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. 5, dated 08.04.2012, under Sections 498-A, 406 of the Indian Penal Code, registered at Police Station Women Cell, Bathinda, District Bathinda and subsequent proceedings arising therefrom including the order dated 02.09.2013 passed by the learned Judicial Magistrate First Class, Bathinda vide which the petitioners have been declared as proclaimed offenders, are ordered to be quashed, however, qua the petitioners only.

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

November 14, 2022
vk

[Vivek Puri]
Judge

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