

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

CRM-M-15309-2021

Date of Decision: August 16, 2022

Jatinder Singh and another

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. C.L. Verma, Advocate,
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Ms. Monika Jangra, 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. 23, dated 14.03.2019, under Section 498-A of the Indian Penal Code, registered at Police Station Sadar Banga, District Shaheed Bhagat Singh Nagar and subsequent proceedings arising therefrom, as well as order dated 02.11.2019 passed by the Court of learned Chief Judicial Magistrate, SBS Nagar vide which the petitioners have been declared as proclaimed offenders, on the basis of the compromise dated 15.03.2021.

On 07.04.2021, 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

regarding the genuineness of the compromise and also to intimate whether any other proceedings are pending against the accused/petitioners.

In compliance of the order dated 07.04.2021, the learned Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar has sent its report, relevant portion thereof is reproduced as following:-

“(i) the compromise entered into between the parties is genuine, voluntary and without any pressure or coercion;

(ii) two accused are mentioned in the FIR namely Jatinder Singh and Gurbux Kaur. Both of them have appeared before this Court and have been, today, released on bail in compliance with the order of the Hon’ble High Court. There is no other accused in the present case, as per the FIR;

(iii) one divorce petition is pending between the parties, which was preferred by first informant Harjinder Kaur against her husband Jatinder Singh before the Family Court, SBS Nagar. The first informant has undertaken to withdraw the same as part of her compromise; and

(iv) the original compromise has not been produced by the parties before this Court.”

Learned counsel for the petitioners contend that the marriage of petitioner no.1 was solemnized with respondent no.2 on 07.05.2017. A female child was born from the wedlock on 20.08.2018. The matrimonial dispute has been amicably settled in terms of the compromise (Annexure P-6). The respondent no.2 is happily residing in her matrimonial house with the petitioners. The petitioners were declared proclaimed persons in terms of the order dated 02.11.2019, but in pursuance of the order dated

07.04.2021 passed by this Court, they have been enlarged on bail by the trial Court.

Learned counsel for respondent no.2 has not disputed the aforesaid factual aspects.

Although, the petitioners have been declared as proclaimed persons, 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 persons, in the event, the same are required to be exercised to achieve the 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 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.

Learned counsel for the petitioners and respondent no.2 are *ad idem* that the matrimonial dispute has been amicably settled between the parties. The respondent no.2 is happily residing in her matrimonial house with the petitioners.

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. 23, dated 14.03.2019, under Section 498-A of the Indian Penal Code, registered at Police Station Sadar Banga, District Shaheed Bhagat Singh Nagar and subsequent proceedings arising therefrom including the order 02.11.2019 passed by the Court of learned Chief Judicial Magistrate, SBS Nagar 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.

August 16, 2022
vkd

[Vivek Puri]
Judge

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