

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

CRM-M-23221-2022

Date of Decision: *November 23, 2022*

Hardeep Singh Chahal and another

.... 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. Iqbal Mohammad, 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. 26, dated 10.06.2019, under Section 498-A of the Indian Penal Code, registered at Police Station Mukandpur, District S.B.S. Nagar and subsequent proceedings arising therefrom including the impugned order dated 07.11.2019 passed by the Court of learned Judicial Magistrate First Class, SBS Nagar, vide which the petitioner no.1 has been declared as proclaimed person, on the basis of the compromise dated 13.04.2022 (Annexure P-3).

On 24.08.2022, 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 with regard to the validity or otherwise of the compromise so effected between the parties.

In compliance of the order dated 24.08.2022, the learned Judicial Magistrate First Class, Shaheed Bhagat Singh Nagar has recorded the statements of the parties and submitted the report, the relevant portion whereof reads as under:-

“7. From the statements of the parties recorded, it appears to this Court that the compromise effected between the complainant and petitioner/accused Rashpal Kaur and Hardeep Singh through their respective attornies is without any pressure, coercion and same was done with the free consent of the parties. Further, it is also submitted that above-said accused/petitioner Rashpal is facing the trial in the present case and as per the statement of investigating officer, petitioner/accused Rashpal Kaur is not declared as proclaimed offender in another case. It is further submitted that accused Hardeep Singh had been declared as proclaimed person in the present case, as such an FIR No. 16 dated 16.02.2022 u/s 174-A IPC,

PS Mukandpur had been registered against him.”

The report is indicative of the fact that the petitioner No.1 has been declared as proclaimed person and his statement has been recorded through his attorney i.e. Rashpal Kaur. The petitioner no.1 has been declared as proclaimed person in terms of the order dated 07.11.2019 (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 30.12.2016, 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-3). The petitioner no.1 and respondent no.2 have instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent. Petitioner No.1 shall pay a sum of Rs.14 lakhs on account of permanent alimony and the said amount has already been paid to her. No other case is pending between the parties except the proceedings under Section 174-A IPC that have been initiated against petitioner no.1. A separate petition for quashing the FIR No. 16, dated 16.02.2022, under Section 174-A IPC registered at Police Station Mukandpur, District S.B.S. Nagar has also been instituted. The petitioner No.1

has been declared as proclaimed person in terms of the order dated 07.11.2019. It has been further submitted that during the relevant period, petitioner no.1 was residing abroad.

Although, the petitioner No.1 has been declared as proclaimed person, 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 petitioner no.1 to be proclaimed person, 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 petitioner no.1 has been declared as proclaimed person 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. Petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent is pending. 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. 26, dated 10.06.2019, under Section 498-A of the Indian Penal Code, registered at Police Station Mukandpur, District S.B.S. Nagar and subsequent proceedings arising therefrom including the order dated 07.11.2019 passed by the learned Judicial Magistrate First Class, S.B.S. Nagar vide which the petitioner No.1 has been declared as proclaimed person, are ordered to be quashed, however, qua the petitioners only.

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

November 23, 2022

vk

[Vivek Puri]
Judge

Whether reasonable / speaking : Yes
Whether reportable : Yes