

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

221

(Through Video Conferencing)

CRR-2084-2012 (O&M)

Date of decision: 02.03.2022

Kulwant Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S. Hissowal, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for respondent No.1-State.

Mr. Ashutosh Hoshiarpuri, Advocate
for respondents No.2(i) to 2(iii).

MANJARI NEHRU KAUL, J. (ORAL)

Vide order dated 11.10.2010 passed by the learned Additional Chief Judicial Magistrate, Jalandhar, the petitioner herein was convicted in case FIR No.106 dated 21.06.2006 under Sections 494 and 498-A IPC registered at Police Station Adampur, District Jalandhar and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.3,000/- along with a default clause and was further directed to undergo rigorous imprisonment for six months under Section 498-A IPC. The appeal preferred by the petitioner against his conviction was dismissed vide order dated 14.05.2012 passed by the learned Additional Sessions Judge, Fast Track Court, Jalandhar. Thereafter, the petitioner preferred the instant revision petition under Section 401 Cr.P.C. to assail the concurrent findings recorded by the Courts below.

During pendency of the instant revision, the petitioner and his wife i.e. respondent No.2-complainant ironed out their differences and arrived at an amicable settlement vide Annexure A-1 dated 05.03.2016. Thereafter, vide order dated 01.02.2019 this Court directed the parties to get their respective statements recorded before the Judicial Magistrate 1st Class which was then duly recorded before the Court concerned on 22.02.2019. As per the report received from learned Judicial Magistrate 1st Class, Jalandhar along with respective statements of the parties, the parties admitted to the factum of an amicable settlement having been arrived at between them and respondent No.2-complainant also made a statement to the effect that she would have no objection if the instant revision i.e. CRR No.2084 of 2012 titled as Kulwant Singh Vs. State of Punjab, filed by the petitioner was accepted and the FIR in question quashed.

After the aforementioned statements of the parties had been recorded, respondent No.2-complainant died on 17.05.2019, which was followed by the miscellaneous applications i.e. CRM-26597-2019 for impleading the LRs of respondent No.2-complainant, and CRM-26598-2019 for directing the petitioner to pay the enhanced share of his increased salary to the tune of Rs. 25,500/- to the LRs of respondent No.2-complainant (since deceased).

Learned counsel appearing for LRs of respondent No.2 i.e. respondents No.2(i) to 2(iii) submits that subsequent to 01.07.2019, the petitioner had failed to comply with the terms and conditions of the compromise dated 05.03.2016 inasmuch as he did not pay half of the amount of his salary to the applicants i.e LRs of respondent No.-2-

complainant. Learned counsel submits that no doubt during the lifetime of respondent No.2-complainant, the petitioner did abide by the terms and conditions of the compromise, however, after 01.07.2019 he stopped the payment of his salary to the LRs of respondent No.2-complainant, despite the fact that after being promoted to the rank of Assistant Sub Inspector in the month of January, 2019, his take home salary was Rs.51,086/- per month and thus, he was bound to pay Rs.25,500/- per month to the LRs of the deceased complainant-respondent No.2. A prayer was thus made, to direct the petitioner to pay half the amount (i.e Rs.25,500/-) of his salary to LRs of respondent No.2-complainant.

Learned counsel for the petitioner has, however, vehemently opposed the submissions made by the learned counsel for the LRs of respondent No.2-complainant by urging that it was a matter of record that the compromise was entered into only between the petitioner and respondent No.2-complainant and the LRs were not even a party to the said compromise, therefore, they were not entitled to half the amount of the petitioner's salary, as prayed for. It was also contended that it was a matter of record and not even disputed by the LRs of respondent No.2 that the petitioner had abided by the terms and conditions of the compromise effected between him and respondent No.2-complainant, during the latter's lifetime.

I have heard learned counsel for the parties and perused the relevant material placed on record.

At the very outset, it is to be observed that in criminal proceedings like the one in hand, the LRs of a complainant would have

no *locus standi* to demand the payment in terms of a compromise arrived at between the accused and the complainant, moreso when it was settled that the petitioner-accused would be making payment only to the complainant and it was nowhere settled in the compromise deed that in the eventuality of the death of the complainant, the petitioner would continue to make payment to the LRs of respondent No.2-complainant.

Admittedly, the compromise (Ex.A-1) which was arrived at between the petitioner and respondent No.2-complainant, in the following terms was adhered to by the former:-

"1. That the first party is the wife of second party and residing separately from each other.

2. That the party of the first part has filed a execution of petition Under Section 125 Cr.P.C. which is pending in the court of Sh. Simran Singh, JMIC, Jalandhar and is fixed for 05-03-2016.

3. That both the parties have agreed to settle the entire claim of maintenance of the first party and it is agreed that the party of the second part will pay Rs.80,000/- before the court of Sh. Simran Singh, JMIC, Jalandhar and out of this amount the party of the second part has paid Rs.50,000/- to the party of the first part on 23-02-2016 and the remaining amount of Rs.30,000/- is to be paid by the party of the second part on 25-03-2016.

4. That the party of the second part has also agreed to transfer his property bearing Khewat No.524, Khatoni No.2, Khasra No.1218/1 total 1 Kanal 10 marlas in which he is having 1/2 share measuring 15 marlas situated at Village Padhiana, Had Bast No.67, Tehsil Adampur, Distt. Jalandhar having value Rs.4.50 Lacs in the name of party of the first part within 15 days from today for arrears of maintenance.

5. That the party of the second part has also agreed to give half of his salary every month to the party of the first part from the month of March 2016 till his retirement and after the retirement of the party of the second part, the party of the first part is also entitled to half of the amount of the pension and retirement benefits of the party of the second part. At present the salary of second party is 33992/-.

6. That the party of the second part has no objection in case the half amount of the salary is deducted from

account No.20303737123 at State Bank of India, Mini Sectt. Jalandhar and be transferred in the account of party of the first part in her account No.2205000121139639 at Punjab National Bank, Rama Mandi, Jalandhar.

7. That the party of the first part has also got a decree under the prevention of Women from Domestic Violence Act and she will not execute and persue the said decree before any court as the entire claim of maintenance Under Section 125 Cr.P.C. and the Prevention of Women from Domestic Violence Act has been settled as per the present compromise.

8. That the party of the first part has also got registered an FIR bearing No.106/2006 under Section 420/498-A/494 IPC P.S. Adampur, District Jalandhar in which the party of the second part was convicted by the court of Mrs. Gurmit Kaur, Addl. Chief Judicial Magistrate, Jalandhar and thereafter he preferred appeal against the said judgment and which was also dismissed. Now the party of the second part has preferred second appeal before the Hon'ble Punjab and Haryana High Court bearing criminal Misc. No.CRM 24549 of 2014 in CRR No.2084 of 2012 which is pending for final adjudication. The party of the first part will also make statement and assist for quashing of the above said appeal.

9. That in case of any default made on the part of the second party the first party is entitled to revive all the cases and to recover the due amount on the basis of present compromise.

10. That the present compromise has been executed without any kind of pressure, threat, coercion, force and undue influence from any quarter on both the parties.

11. That both the parties will be bound by the statement mentioned in the present compromise."

As per the respective statements of the parties which are annexed with the report sent by the JMIC, Jalandhar, respondent No.2-complainant categorically stated as under:-

"With the intervention of the respectables and the nearand dear ones of both sides, the matter has been amicably settled and compromised between me and Kulwant Singh. The said compromise (the certified copy of the same is Ex.P1) dated 05.03.2016 is genuine and made with my free will and without any pressure or coercion from any corner. I have no objection if the present FIR is quashed against the accused Kulwant Singh. I identify my signature at point A, B, C and D on the said compromise. As per the compromise I have no objection if the CRR no.2084 of 2012 filed by Kulwant Singh before Hon'ble

Punjab and Haryana High Court titled as Kulwant Singh Vs. State of Punjab is accepted and the aforesaid FIR is quashed and Kulwant Singh is acquitted and the order dated 11.10.2010 passed by the Hon'ble Court of Mrs. Gurmeet Kaur, Additional CJM, Jalandhar and the order passed in appeal titled as Kulwant Singh Vs. State of Punjab passed by the Hon'ble Court of Sh. Sandeep Kumar Singla Additional Sessions Judge, Fast Track Court Jalandhar dated 14.05.2012 are set aside."

Therefore, as a sequel to the above discussions, CRM-26598-2019 vide which directions to the petitioner were sought for, to pay enhanced share of his increased salary is dismissed being devoid of any merit.

Adverting to the main case, in view of the report of the learned Judicial Magistrate 1st Class, Jalandhar and the principles laid down by the Apex Court in ***Criminal Appeal No.1393 of 2011 titled as 'Ramawtar Vs. State of Madhya Pradesh' decided on 25.10.2021 : LL 2021 SC 589*** and this Court in ***Sube Singh and another Vs. State of Haryana and another : 2013(4) RCR (Criminal) 102***, the instant petition is allowed. The aforesaid FIR and all consequential proceedings arising therefrom including judgment of conviction and order of sentence passed by the Court below, are quashed.

Since the main case is allowed, there is no need to pass separate orders on pending applications which are disposed of accordingly.

02.03.2022

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(MANJARI NEHRU KAUL)
JUDGE

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