

IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH

CRM-M-28836-2019 (O&M)

Date of Decision: September 22, 2022

Honey Kumar and another

.... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIVEK PURI

Present: Mr. Avtar S. Khinda, Advocate,
for the petitioners.

Ms. Ruchika Sabarwal, AAG, Punjab

Mr. Harvinder Singh, Advocate,
for respondent no.2.

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Vivek Puri, J.

CRM-33810-2022

This is an application for placing on record the
death certificate of petitioner no.2 (Annexure A-1).

Annexure A-1 is taken on record.

Application stands disposed of.

CRM-M-28836-2019

The petitioners have approached this Court by
way of instant petition under Section 482 of the Code of

Criminal Procedure (for short ('Cr.P.C.)) invoking its inherent jurisdiction for quashing of F.I.R. No. 4 dated 31.01.2016, registered under Sections 498-A, 406 of the Indian Penal Code (for short 'IPC') at Police Station Bholath, District Kapurthala and all subsequent proceedings arising therefrom, as well as, judgment dated 07.01.2019 passed by the learned Judicial Magistrate 1st Class, Kapurthala vide which the petitioners have been convicted and sentenced, on the basis of compromise dated 31.05.2019 (Annexure P-3).

Precisely, the case has been registered on the allegations that the marriage of respondent no.2 was solemnized with petitioner no.1 on 28.10.2012 and her parents had spent Rs. 7 lakhs as per their capacity at the time of marriage. Soon after the marriage, mother-in-law and husband of the respondent no.2 started harassing for bringing less dowry. Consequently, the aforesaid FIR was registered. The petitioners have been convicted under Section 498-A IPC in terms of the judgment dated 07.01.2019 and sentenced to undergo simple imprisonment for a period of two years each and fine of Rs. 1000/- each.

Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioners have preferred a criminal appeal which is now pending in the court of learned Additional Sessions Judge, Kapurthala for 02.11.2022.

On 10.07.2019, the parties were directed to appear before the learned appellate Court to get recorded their statements regarding compromise and it was further directed that after recording their statements, the learned appellate Court shall send a report regarding the genuineness of the compromise and also to intimate whether any accused is proclaimed offender.

In compliance of the order dated 10.07.2019, the learned Additional Sessions Judge, Kapurthala, has sent its report, relevant portion thereof is reproduced as following:-

“In compliance of the said order, separate statements of parties i.e. complainant / respondent Mandeep Kaur and appellants / accused Honey Kumar & Nirmala Rani have been recorded under the identification of their respective counsel. So far the directions to submit the report as desired in the said order dated 10.07.2019, it is hereby submitted that there are two persons i.e. appellants/accused Honey Kumar and Nirmala Rani arrayed in the present FIR; no accused person found declared proclaimed offender during the proceedings of the present case and as per their respective statements i.e. of complainant Mandeep Kaur and accused persons Honey Kumar and Nirmala Rani, the compromise Ex.C1 is genuine and has been reached in between the parties voluntarily and without any pressure or

coercion or undue influence through the respectables of the locality.”

Learned counsel for the petitioners submit that the marriage of the petitioner no.1 was solemnized with the respondent no.2 on 28.10.2012 and a male child was born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of the compromise (Annexure P-3). The petitioner no.1 and the respondent no.2 have resumed co-habitation. The respondent no.2 along with minor child is happily residing in the matrimonial house with the petitioner no.1. Furthermore, the petitioner no.2, who is the mother-in-law of the respondent no.2 has died on 06.03.2022 and the copy of her death certificate is Annexure A-1.

Learned counsel for respondent no.2 as well as learned State counsel have not disputed the fact with regard to death of petitioner no.2.

After hearing the learned counsel for the parties and going through 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 an out of the Court settlement by way of compromise (Annexure P-3). The compromise is genuine

one and has been voluntarily executed by the parties without any pressure or undue influence.

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**.

In the decision rendered in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102**, the Division Bench of this Court has laid down as following:-

“17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

In the aforesaid decision, it has been further laid down as following:-

“21. In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the

relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

Furthermore, in the decision rendered in ***Ramgopal and another Vs. State of Madhya Pradesh, Criminal Appeal No. 1489 of 2012, decided on 29.09.2021***, it has been held by the Supreme Court that non compoundable criminal cases of pre-dominantly private nature can be quashed under Section 482 Cr.P.C. even if compromise is reached after conviction.

The respondent no.2 along with minor child is happily residing in the matrimonial house with the petitioner no.1 and the matter has been amicably settled in terms of compromise (Annexure P-3). In such circumstances, the compromise will go a long way in maintaining cordial and harmonious relations between the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, F.I.R. No. 4 dated 31.01.2016, registered under Sections 498-A, 406

IPC, at Police Station Bholath, District Kapurthala and all subsequent proceedings arising therefrom, on the basis of compromise dated 31.05.2019 (Annexure P-3) effected between the parties, is ordered to be quashed, as well as, the judgment of conviction and order of sentence dated 07.01.2019 passed by the learned Judicial Magistrate 1st Class, Kapurthala are set aside. The petitioners are acquitted and fine, if any, deposited be refunded. The appeal qua petitioner no.2 stands abated. Furthermore, the appeal preferred by the petitioner no.1 against the judgment of conviction and order of sentence dated 07.01.2019 would be rendered infructuous and shall be so declared by the learned Additional Sessions Judge where the appeal is pending.

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

September 22, 2022
vkd

(VIVEK PURI)
JUDGE

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