

**280 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-41785-2021 (O&M)

Date of Decision: 25.07.2022

KAILASH CHANDER

... PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Naresh Chander, Advocate for the petitioner.

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

Mr. Amit Kashyap, Advocate for respondent No.2.

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VIVEK PURI, J. (ORAL)

CRM-24402-2022

This is an application for amendment of headnote and prayer clause by making addition of offence under Section 406 IPC in the main petition.

Application is allowed. Registry is directed to make necessary correction in the headnote and prayer clause.

Disposed of.

Main case

Present petition under Section 482 Cr.P.C. is for quashing of FIR No. 87 dated 08.06.2021 registered under Section 498-A of the Indian Penal Code at Police Station Naya Gaon, District SAS Nagar, Punjab and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

On 01.12.2021, the parties were directed to appear before the Trial Court and get their statements recorded with regard to the compromise arrived at between them. The Trial Court was directed to record the statements of all the concerned and sent its report regarding genuineness of the compromise.

In compliance of the order dated 01.12.2021, learned Judicial Magistrate Ist Class, Kharar has recorded the statements of the parties and submitted the report, the relevant portion whereof reads as under:-

“ (i) There are (sic. is) one person arrayed as accused in FIR and no accused has been declared Proclaimed offender in the case.

(ii) The name of the complainant is as Pooja Panth.

(iii) In the present case Challan is not presented.

(iv) From statement of above persons, ex-facie, it transpire that the compromise is genuine, voluntarily and out of free will of the parties qua complainant and accused.”

Learned counsel for the petitioner contends that matrimonial dispute has been amicably settled in terms of the compromise, Annexure P-2. The marriage of the petitioner was solemnized with respondent No. 2 on 18.02.2019. No child has been born from the wedlock. The marriage between petitioner and respondent No.2 has been dissolved by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act in terms of the judgment and decree dated 11.05.2022 passed by the learned Principal Judge, (Camp Court) Kharar. A sum of Rs. 6.5 Lakhs has been paid to respondent No.2 on account of permanent alimony. She has received all her articles of *Istridhan*. Nothing is due to respondent No.2 from the petitioner. No other case is pending between the parties.

It has been further stated that subsequent to the registration of FIR, the offence under Section 406 IPC has also been added.

Learned counsel for respondent No.2 has acknowledged this fact and has stated that he has no objection if the aforementioned FIR is quashed.

Learned State counsel submits that offence under Section 406 IPC has been added on 30.06.2021.

After hearing learned counsel for the parties and going through the 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 a settlement, out of the Court, by way of compromise (Annexure P-2). The compromise is without any pressure and is a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

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.

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***.

Accordingly, the present petition is allowed and FIR No. 87

dated 08.06.2021 registered under Sections 498-A of the Indian Penal Code at Police Station Naya Gaon, District SAS Nagar, Punjab and all the consequential proceedings arising therefrom are quashed qua the petitioner only. However, it is made clear that this order shall also be construed to have been passed with regard to the offence under Section 406 IPC, that is stated to have been added in the instant case subsequent to the registration of the FIR.

25.07.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No