

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

CRM-M-45155-2021

Date of Decision: August 18, 2022

Sudesh Saini and another

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sandeep Arora, Advocate,
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. G.S. Rawat, 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. 48, dated 08.08.2018, under Sections 406, 498-A of the Indian Penal Code, registered at Police Station, Women, District Police Commissionerate Jalandhar and subsequent proceedings arising therefrom, as well as order dated 06.04.2019 passed by the Court of learned Judicial Magistrate First Class, Jalandhar vide which petitioner no.2 has been declared as proclaimed person, on

the basis of the compromise dated 01.10.2021 (Annexure P-3).

On 29.10.2021, 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 criminal case is pending against the accused.

In compliance of the order dated 29.10.2021, the learned Judicial Magistrate First Class, Jalandhar has sent its report, relevant portion thereof is reproduced as following:-

“As per record, there are only two accused namely Sudesh Saini and Anuj Saini nominated by the police in this case. Accused Anuj Saini has been declared P.O. in this case. At present Anuj Saini is on interim bail granted by Hon’ble High Court in CRM-M-45155-2021. There is only one complainant/victim in this case namely Sarabjit Kaur. Both the parties have appeared in the court and recorded their compromise statements. There is no other criminal case pending against the accused persons. At present, the main case CHI-660-2019 is pending for the appearance of the accused.

Both parties have compromised the matter. There is no grudge remain between

parties. The compromise is voluntary, without any pressure or coercion. This court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.”

Learned counsel for the petitioners contend that the marriage of petitioner no.2 was solemnized with respondent no.2 on 23.10.2015. A female child was born from the wedlock on 08.07.2016. The matrimonial dispute has been amicably settled in terms of the compromise (Annexure P-3). The marriage of the petitioner no.2 and the 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 09.12.2021 passed by the learned Family Court, Jalandhar. It has been further stated that the respondent no.2 has received a sum of Rs. 7 lakhs on account of permanent alimony. The custody of minor daughter shall remain with respondent no.2. Petitioner No.2 was declared proclaimed person in terms of the order dated 06.04.2019, but in pursuance of the order dated 29.10.2021 passed by this Court, he has been enlarged on bail by the trial Court.

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

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.

Although, the petitioner no.2 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 to be proclaimed person, 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 petitioner no.2 has been declared as proclaimed offender 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.

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. 48, dated 08.08.2018, under Sections 406, 498-A of the Indian Penal Code, registered at Police Station, Women,

District Police Commissionerate Jalandhar and subsequent proceedings arising therefrom, as well as, order dated 06.04.2019 passed by the Court of learned Judicial Magistrate First Class, Jalandhar vide which petitioner no.2 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.

August 18, 2022
vkd

[Vivek Puri]
Judge

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