

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(249)

CRM-M-52101-2021
Date of Decision:- 07.07.2022

Ranjit Singh and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amit Dhawan, Advocate for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab
for State-respondent No.1.

Mr. Nakul Sharma, Advocate for
Mr. M.S.Sachdev, Advocate
for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

On 15.02.2022, this Court passed the following order in the main case:-

“Prayer in this petition is for quashing of FIR No.105 dated 15.08.2007 under Sections 406/498-A of IPC, 1860, registered at Police Station Bhogpur, District Jalandhar, Annexure P-5, along with all consequential proceedings arising therefrom, and the order dated 10.06.2008, Annexure P-6, passed by JMIC, Jalandhar, whereby the petitioners have been declared as Proclaimed Offenders, on the basis of compromise deed dated 09.11.2021, Annexure P-10 and an affidavit dated 23.11.2021, Annexure P-12.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the sister-in-law of the complainant/respondent No.2. He submits that petitioner No.1 had earlier approached this Court by filing CRM-M-31977-2012, seeking quashing of the FIR on merits, which was withdrawn vide order dated 10.10.2012 with liberty to file a fresh one. He submits that marriage of

petitioner No.1 was solemnized with complainant/respondent No.2 on 23.01.2002, the parties cohabited together for a few months and a daughter was born out of the wedlock on 12.11.2003. He submits that due to temperamental differences, the parties could not get along and two FIRs were lodged by the complainant/respondent No.2 including FIR, Annexure P-5. He submits that the dispute has been settled by virtue of compromise deed, Annexure P-10, which is supported by an Affidavit, Annexure P-12, of the complainant and a petition seeking divorce by mutual consent has been instituted under Section 13-B of the Hindu Marriage Act, 1955, wherein the first motion has been recorded and a sum of Rs.25 lacs towards part payment of the alimony has been made. According to the counsel, the balance payment of Rs.25 lacs is to be made at the time of recording of the statement of the parties in the present petition. He submits that both the petitioners were declared as Proclaimed Offenders without following the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973, and no attempt was made to serve them through the Ministry of External Affairs. He urges that both of them are abroad and are unable to return to India due to restrictions on travel due to the pandemic.

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab, accepts notice on behalf of respondent No.1-State. As per instructions received by him from ASI Talwinder Singh, FIR was registered against 04 accused including both the petitioners. He submits that accused, Roshan Lal, was acquitted by the trial court vide judgment dated 12.08.2013, Annexure P-7, and Mohinder Kaur, mother-in-law of the complainant was convicted by the same order, who was later acquitted in appeal. Mr. Mandeep Singh Sachdev, Advocate accepts notice on behalf of the complainant/respondent No.2. He admits the factum of compromise as well as the statement made by counsel for the petitioners. He submits that the order acquitting mother-in-law has been challenged by the complainant in CRR-511-2016, which is pending before this Court and is fixed for 31.05.2022. He has instructions to submit that the complainant will be moving an application for withdrawing the same.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/Trial Court on 23.03.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise.

The Illaqa Magistrate/Trial Court shall submit a report on or before the next date of hearing specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. whether any other criminal case is pending against the accused.*

As both the petitioners are abroad, their statements be recorded through the medium of video conferencing after they are duly identified by their respective counsel before the Trial Court. Trial Court shall make necessary arrangements in this regard.

Report of Illaqa Magistrate/Trial Court be awaited for 20.05.2022.

In the meanwhile, operation of order dated 10.06.2008, Annexure P- 6, shall remain stayed till the next date of hearing.”

Report has been received from the Trial Court in pursuance to the above reproduced order and its relevant extract is as under:-

“i. That there are four accused namely Ranjit Singh, Jagdish Kaur, Roshan Lal and Mohinder Kaur arraigned in the FIR. Accused Mohinder Kaur had been convicted under Section 406, 498-A IPC and accused Roshan Lal was acquitted by Ld. Trial Court vide judgment dated 12.08.2013 and was acquitted by the Ld. Appellate Court vide judgment dated 28.10.2015.

Accused Ranjit and Jagdish Kaur were declared proclaimed offender, who appeared in the Court on 23.03.2022 though Video Conferencing for getting their statement recorded.

ii. There is only one complainant namely Sharanjit Kaur daughter of Late Sh. Kumar Iqbal Singh. She appeared and made her statement in support of compromise.

iii. The trial against accused Roshan Lal, Mohinder Kaur has already been concluded, while accused Ranjit

Singh and Jagdish Kaur. - (sic). Nothing qua any accused is pending before this Court.

iv. The compromise is voluntarily, genuine and without any coercion or any undue influence.

v. As per the statement of Ranjit Singh and Investigating Officer, FIR No.7 dated 26.10.2012 PS Navi Baradari, Jalandhar was registered against accused Ranjit Singh and quashing petition is pending in the Hon'ble Punjab and Haryana High Court."

Counsel for the petitioners submits that during the pendency of the instant petition, the balance amount of permanent alimony of Rs.25 lacs has been paid to complainant-respondent No.2 and marriage has been dissolved by mutual consent vide judgment and decree dated 24.05.2022, a copy of which has been taken on the record as Mark A.

Heard counsel for the parties.

In so far as impugned order dated 10.06.2008 (Annexure P-6) declaring both the petitioners as proclaimed offenders is concerned, it deserves to be noticed that FIR is an outcome of a matrimonial dispute, which has been settled amicably and the marriage also stands dissolved. The petitioners were abroad at the time when the FIR was registered and no material could be brought on the record by the State-respondent No.1 to show that any effort was made to serve them at their place of residence. Moreover, the petitioners have appeared before the Trial Court, though through the medium of video conferencing, for recording their statements, therefore the objective of Section 82 Cr.P.C., which is to secure the presence of the accused is served. Furthermore, they have also deposited cost of Rs.1.30 lacs in compliance of order dated 16.12.2021 passed by this Court.

Keeping in view the above development, report of the Trial Court as well as the judgments of the Supreme Court in *B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888* and *Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322*, this Court is of the view that both the prayers made in the petition deserve to be accepted.

Resultantly, petition is allowed. FIR No.105 dated 15.08.2007, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, registered at Police Station Bhogpur, District Jalandhar, Annexure P-5, along with all consequential proceedings arising therefrom, as well as order dated 10.06.2008, Annexure P-6, whereby the petitioners have been declared as Proclaimed Offenders, are quashed.

(SUVIR SEHGAL)
JUDGE

07.07.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No