

CRM-M-53600-2021
Date of decision: 15.09.2022

...PETITIONERS

...RESPONDENTS

CRM-M-5899-2022

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...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Mr. Sahil Khunger, Advocate
for respondent No.2.

VIVEK PURI,J. (ORAL)

Petitioners have approached this Court by way of instant petition under Section 482 Cr.P.C. invoking its inherent jurisdiction for quashing of FIR No.235 dated 25.11.2015 under Sections 406/498-A/120-B/506 IPC, registered at Police Station Macchiwara, District Khanna and all the consequential proceedings arising therefrom, on the basis of compromise.

On 15.02.2022, parties were directed to appear before the Trial Court/Illaq Magistrate 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 send its report regarding genuineness and voluntary nature of the compromise.

In compliance of the order dated 15.02.2022, learned Judicial

Magistrate 1st Class, Samrala has recorded the statements of the parties and submitted the report, the relevant para whereof reads as under:-

- “i) Five persons were arrayed as accused in the FIR i.e. accused Amrinder Singh son of Gurnam Singh, Gurnam Singh son of Joginder Singh, Bhajan Kaur wife of Gurnam Singh, Gurbhej Singh son of Gurnam Singh and Simrandeep Kaur daughter of Pritam Singh.*
- ii) Accused Gurbhej Singh and Rajdeep Kaur @ Simrandeep Kaur were declared proclaimed offenders vide order dated 04.03.2017 in the present case. However, the operation of the said order has been stayed by the Hon’ble High Court in CRM-M-53600-2021*
- iii) The compromise entered into between the parties appears to be genuine and voluntary and the same appears to have been effected between the parties out of their free will and consent, without any threat or pressure or undue influence.*
- iv) As per the joint statement of accused Gurbhej Singh and Rajveer Kaur @ Simrandeep Kaur and the statement of the Investigating Officer, the said accused are not involved in any other case.*
- v) As per the statement of the Investigating officer, complainant Resham Kaur daughter of Joginder Singh is the only victim and complainant in the present case.”*

Learned counsel for the petitioners contend that the marriage of Amrinder Singh was solemnized with the complainant on 18.02.2014. The matrimonial dispute had cropped up between them. Petitioner No.1 is the brother-in-law of the complainant and petitioner No.2 is his wife. The FIR was registered against the petitioners along with the parents and husband of the complainant and subsequently, compromise was effected. The marriage of Amrinder Singh and the complainant has been dissolved by a decree of divorce by a mutual consent u/s 13-B of the Hindu Marriage Act. In view of the amicable settlement, Amrinder Singh, Gurnam Singh and Bhajan Kaur i.e. the husband, father-in-law and mother-in-law respectively of the complainant had approached this Court by

of compromise in terms of order dated 30.05.2017 passed in CRM-M-8570-2017, the FIR has been quashed.

It has been further submitted that the petitioners remained under bonafide belief that they have been declared to be innocent and consequently, they had failed to put appearance in the Court. Accordingly, in terms of order dated 04.03.2017, they have been declared proclaimed persons. The said order has been assailed in CRM-M-53600 of 2021 and the operation of the impugned order has been stayed. The matrimonial dispute of the brother of petitioner No.1 and the complainant has been amicably settled.

Learned counsel for respondent No.2 states that he has no objection if FIR and the order declaring the petitioners to be proclaimed persons are quashed.

After hearing the 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. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

Although, the petitioners have been declared as proclaimed persons in terms of order dated 04.03.2017 but it cannot be said that the power to quash the prosecution is limited only to the matrimonial disputes alone and the same cannot be invoked to set aside the order declaring the petitioners to be proclaimed offender/person, in the event, the same are required to be exercised to achieve ends of justice and prevent the abuse of process of law. It may be true that inherent powers under Section 482 Cr.P.C cannot be exercised to quash the

criminal proceedings where the offences are heinous in nature, but in the event, the matter is overwhelmingly and predominantly of civil nature and particularly arising out of matrimonial dispute, it shall be appropriate to quash the FIR and 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 petitioners have been declared as proclaimed persons but keeping in view the fact that an amicable settlement has been effected, the entire subsequent proceedings which have arisen out of the matrimonial dispute should come to an end by exercising inherent powers of this Court in order to secure the ends of justice. In such situation, the continuation of 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 dispute between the petitioners who are the relatives of respondent No.2 being brother and sister-in-law of the husband of respondent No.2 has been sought to be amicably settled. The FIR qua the husband, father-in-law and mother-in-law of respondent No.2 has already been quashed in terms of order dated 30.05.2017 passed in CRM-M-8570-2017. In such circumstances, 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)***

others (2012) 10 SCC 303.

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.235 dated 25.11.2015 under Sections 406/498-A/120-B/506 IPC, registered at Police Station Macchiwara, District Khanna and all the consequential proceedings arising therefrom including the order dated 04.03.2017 whereby the petitioners have been declared as proclaimed persons in the said FIR and are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, both the petitions stand allowed.

15.09.2022
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(VIVEK PURI)
JUDGE

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