

286 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54538-2021
Date of Decision: 22.09.2022

SOURABH PUPNEJA AND OTHERS ... PETITIONERS

V/S

STATE OF HARYANA AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vaibhav Sharma, Advocate and
Mr. Vipin Bhardwaj, Advocate for the petitioner.

Mr. Chetan Sharma, AAG Haryana.

Ms. Pinki Mehla, Advocate for
Mr. Pawan Attri, Advocate for respondent No.2.

* * *

VIVEK PURI, J. (ORAL)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No. 423 dated 28.07.2018 registered under Sections 323, 406, 498-A of the Indian Penal Code at Police Station Kaithal City, Haryana and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

On 12.07.2022, 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 send its report regarding genuineness of the compromise.

In compliance of the order dated 12.07.2022, learned Judicial

Magistrate Ist Class, Kaithal has recorded the statements of the parties and submitted the report, the relevant portion whereof reads as under:-

“ 1) Saurabh Papneja, son of Surender Papneja, 2) Sahil Papneja, son of Surender Papneja, 3) Santosh, wife of Surender Papneja and 4) Surender Papneja, son of Lakhmi Chand Papneja. However, accused Sahil Papneja was not arrayed as accused by police and final report under Section 173 Cr.P.C. was presented against only three accused i.e. 1) Saurabh Papneja, son of Surender Papneja, 2) Santosh, wife of Surender Papneja and 3) Surender Papneja, son of Lakhmi Chand Papneja. Thus, as of now there are total three accused persons namely Saurabh Papneja, son of Surender Papneja, Santosh, wife of Surender Papneja and Surender Papneja, son of Lakhmi Chand Papneja, who are facing trial in the present FIR.

POINT NO.2:

4. Regarding Point no. 2, it is submitted that as per statement of Investigating Officer (Annexure-1) no accused have been declared as Proclaimed Offender in this case.

POINT NO.3:

5. Regarding Point no. 3, it is submitted that complainant Payal vide her separate statement (Annexure-2) and accused namely Saurabh Papneja son of Surender Papneja, Santosh wife of Surender Papneja and Surender Papneja son of Lakhmi Chand Papneja vide their separate joint statement (Annexure-3) have stated that the compromise has been effected between the parties out of their free will and without any coercion or pressure from any corner. The complainant Payal has also stated that she has compromised the matter with the accused persons and the compromise was effected by her free will and without any coercion or pressure from any corner. Accused persons have also stated that compromise is correct and genuine and was effected out of free will of the parties, without any pressure or coercion. In view of the said statements of the parties, the compromise appears to be effected voluntarily and out of free will. Identically (sic. Identity) proof of complainant and accused are Annexure 4 to Annexure 8. Accordingly, in view of the said statements of the complainant and accused persons, it is submitted that the compromise effected between the parties is genuine.

POINT NO.4:

6. Regarding Point no. (4), it is submitted that the Investigating Officer/SI Ram Niwas has submitted that no other criminal case is pending against accused persons namely Saurabh Papneja son of Surender Papneja, Santosh wife of Surender Papneja and Surender Papneja son of Lakhmi Chand Papneja.

POINT NO.5:

7. Regarding Point no. (5), it is submitted that the statement of Investigating Officer has been recorded qua the number of victims/complainants in the FIR. As per report of Investigating Officer, there is only one victim/complainant namely Payal in the present FIR.”

Learned counsel for the petitioners contend that the marriage of petitioner No.1 was solemnized with respondent No.2 on 21.08.2016 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of Memorandum of Understanding, Annexure P-2. The marriage of petitioner No.1 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 29.03.2022 passed by the Court of learned Family Court, Kaithal. A sum of Rs. 5,75,000/- has been paid to respondent No.2 on account of permanent alimony. No other case is pending between the parties.

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

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

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*.

As per the report and the contents of the reply submitted by respondent No.1, the petitioner No.4 has been found to be innocent and challan has only been presented against petitioner Nos.1 to 3.

Accordingly, the present petition is allowed and FIR No.423 dated 28.07.2018 registered under Sections 323, 406, 498-A of the Indian Penal Code at Police Station Kaithal City, Haryana and all the consequential proceedings arising therefrom are quashed qua the petitioner Nos.1 to 3 only.

22.09.2022

Janki

(VIVEK PURI)
JUDGE

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