

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45338-2019 (O&M)

Date of Decision: 24.11.2022.

SHER SINGH AND OTHERS

... PETITIONERS

VS.

STATE OF PUNJAB AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Gagandeep Singh Sirphikhi, Advocate, for the petitioners.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

None for respondent No.2.

VIVEK PURI, J.(ORAL)

CRM-45198-2022

This is an application for placing on record copy of judgment and decree 05.12.2019 as Annexure A-1.

For the reasons stated in the application, the same is allowed. Copy of judgment and decree 05.12.2019 is taken on record as Annexure A-1, subject to all just exceptions.

Registry is directed to tag the same at appropriate place.

Application is disposed of.

CRM-M-45338-2019

Through instant petition, the petitioners are seeking to quash the FIR No.138 dated 03.08.2018 under Sections 377/498-A/406 IPC (Section 498-A and 406 IPC added subsequently), registered at Police Station Majitha, Police District Amritsar Rural and all the consequential proceedings arising therefrom on the basis of compromise.

On 24.10.2019, the parties were directed to get their statements recorded before the learned Illaqa Magistrate/ Trial Court.

In compliance of the order dated 24.10.2019, the statements of the

parties have been recorded and the learned Judicial Magistrate 1st Class, Amritsar, has sent the report and the relevant portion whereof reads as under:-

“In compliance with the above mentioned Criminal Miscellaneous, statement of complainant Paramjit Kaur @ Paramjeet Kaur, has been recorded who has averred that the matter at hand has been compromised with the accused persons. As such, she does not want to proceed with the present case against the accused persons. She further contended that her statement given in the court is without any coercion, threat or pressure. Copy of her Aadhar Card mark A, in proof of her identity, is appended herewith.

On the other hand, accused 1) Sher Singh, 2) Amolak Singh, 3) Surinder Kaur got recorded their statements, expressing agreement with the compromise. Copy of their Aadhar Card mark B, C and D, in proof of their identity, is appended herewith.

IO/ASI Nachhatar Singh has also came present and made a separate statement that there are three accused namely Sher Singh, Amolak Singh and Surinder Kaur. None of the accused was declared as proclaimed offender and challan in this case is yet to be presented.

In these circumstances, I am of the view that the compromise between the parties has been arrived at voluntarily, is genuine and bonafide and not a result of pressure or coercion.”

Learned counsel for the petitioners contend that the marriage of petitioner No.1 was solemnized with respondent No.2 on 17.01.2016, but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties. 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 Hindu Marriage Act in terms of the judgment and decree dated 05.12.2019 passed by the learned Family Court, Gurdaspur. Petitioner No.1 has paid a sum of Rs.9 lac

on account of permanent alimony to respondent No.2 and no other case is pending between the parties.

In the instant case, notice was issued to respondent No.2. However, she has refused to accept the service of summons and affixation has been carried out. It may be mentioned here that in the report of trial Court, statement of respondent No.2 has already been recorded. In the said statement, it has been specifically and categorically stated by her that the compromise has been effected with the petitioners out of her free will and consent and without any pressure, threat, coercion or undue influence. She has admitted the compromise to be genuine and voluntary and she has no objection if the present petition is allowed.

After hearing learned counsel appearing 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.

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***.

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.138 dated 03.08.2018 under Sections 377/498-A/406 IPC (Section 498-A

and 406 IPC added subsequently), registered at Police Station Majitha, Police District Amritsar Rural and all the consequential proceedings arising therefrom on the basis of compromise are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

24.11.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No