

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

CRM-M-17346-2023

Date of Decision: December 06, 2023

Gurdial Singh and another

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vikas Bali, Advocate,
for the petitioners.

Mr. Amish Sharma, AAG, Punjab.

Mr. D.S. Sidhu, Advocate,
for respondent no.2.

Vivek Puri, J.

1. The petitioner has approached this Court by way of instant petition under Sections 482 of the Code of Criminal Procedure (for short `Cr.P.C.`) invoking the inherent jurisdiction for quashing the FIR No. 221, dated 12.11.2020, under Sections 406, 498-A of the Indian Penal Code (for short `IPC`), registered at Police Station Mahilpur, District Hoshiarpur and subsequent proceedings arising therefrom on the basis of the compromise dated 13.08.2022 (Annexure P-5) and further for quashing the order dated 01.11.2021 (Annexue P-3) passed by the Court of learned Judicial

Magistrate First Class, Garhshankar, whereby the petitioner No.2 has been declared as proclaimed offender.

2. On 04.09.2023, 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.

3. In compliance of the order dated 04.09.2023, the learned Judicial Magistrate First Class, Garhshankar, has sent its report. The relevant portion of the report is reproduced as following:-

“1. As per record and as per statement of Investigating Officer, two persons namely Gurdial Singh and Ranjit Mehmi were arrayed as accused in FIR.

2. As per record and as per statement of Investigating Officer, accused Ranjit Mehmi is proclaimed offender but now complainant has compromised the matter with both accused Gurdial Singh and Ranjit Mehmi.

3. The matter has been compromised between complainant and accused persons namely Gurdial Singh and Ranjit Mehmi voluntarily and out of their free will and consent and without any coercion or undue influence. The compromise appears to be genuine.

4. *As per statement of Investigating Officer, accused persons are not involved in any other case.*

5. *Statement of Investigating Officer ASI Balbir Singh No. 1890/HPR is recorded and as per his statement, there is only one victim who is complainant Surinder Kaur in the present FIR.”*

4. Learned counsel for the petitioners contend that though the allegations were leveled against the petitioners and two other relatives but the FIR has been registered only against the petitioners. The marriage of petitioner No.2 was solemnized with respondent no.2 on 22.03.2018, but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise (Annexure P-5). A sum of Rs. 3,00,000/- has been paid to respondent no.2 in full and final settlement of her claim for permanent alimony. The marriage of petitioner no.2 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 24.05.2023 passed by learned Family Court, Hoshiarpur. Respondent No.2 has received all her articles of *Istridhan* and nothing else is due payable to her by the petitioners. No other case is pending between the parties. Petitioner No.2 has been declared as proclaimed offender in terms of order dated 01.11.2021 and in view of

the amicable settlement, the said order may not be given any effect.

5. Learned counsel for the respondent no.2 has acknowledged the fact of compromise.

6. 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 private parties have arrived at a settlement, out of court, by way of compromise dated 13.08.2022 (Annexure P-5). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

7. Although, the petitioner no.2 has been declared as proclaimed offender, 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 offender, in the event, the same is required to be exercised to achieve ends of justice and prevent the abuse of process of law. It may be true that the inherent powers 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.

8. The compromise has been voluntarily effected between the parties and they are stated to be residing separately and peacefully.

9. Learned counsel for the petitioners and respondent no.2 are *ad idem* that the matrimonial dispute has been amicably settled between the parties. The marriage

of the petitioner no.2 and the respondent no.2 has been dissolved by a decree of divorce by mutual consent.

10. For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, approved 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**.

11. 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. 221, dated 12.11.2020, under Sections 406, 498-A IPC, registered at Police Station Mahilpur, District Hoshiarpur and subsequent proceedings arising therefrom on the basis of the compromise dated 13.08.2022 including the order dated 01.11.2021 (Annexure P-3) passed by the Court of learned Judicial Magistrate First Class, Garhshankar, vide which the petitioner no.2 has been declared as proclaimed offender, are ordered to be quashed, however, qua the petitioners only.

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

December 06, 2023

vk

[Vivek Puri]
Judge

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