

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

Date of Decision: October 17, 2023

1. CRM-M-35787-2023

Harmail Singh and others

... Petitioners

Versus

State of Punjab and another

.... Respondents

2. CRM-M-35792-2023

Khushdeep Singh Barn

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

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

Mr. Hittan Nehra, Addl. AG, Punjab.

Mr. Ravinder Gill, Advocate,
for respondent No.2.

Vivek Puri, J.

1. In CRM-M-35787-2023, the petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') invoking the inherent jurisdiction for quashing the FIR No. 30, dated 21.02.2017, under Sections 498-A, 406, 420, 354, 377, 511, 506 of the Indian Penal Code (for short

IPC'), registered at Police Station Sadar Khanna, District Khanna and subsequent proceedings arising therefrom, on the basis of compromise dated 09.03.2023 (Annexure P-3).

2. In CRM-M-35792-2023, the petitioner is seeking to quash the order dated 08.10.2021 passed by the Court of learned Judicial Magistrate Ist Class, Khanna, vide which the petitioner has been declared as proclaimed person.

3. Both the aforesaid petitions have been listed together for hearing as the same have arisen out of matrimonial dispute of Khushdeep Singh Barn-petitioner and respondent no.2. As such, the afore-mentioned petitions are being decided by a common judgment.

4. On 26.07.2023, 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 and also to intimate whether any accused is proclaimed offender.

5. In compliance of the order dated 26.07.2023, the learned Judicial Magistrate Ist Class, Khanna has sent its report and the relevant portion thereof is reproduced as following:-

*“(i) Number of persons arrayed as accused in
FIR?”*

It is hereby submitted that as per the statement of IO, there are three accused in the present FIR namely Harmail Singh, Kushdeep Singh and Sukhjit Kaur.

(ii) Whether any accused is proclaimed offender.

It is hereby submitted that as per the statement of IO of the present case accused Kushdeep Singh was declared as proclaimed offender vide order dated 08.10.2021.

(iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.

It is hereby submitted that statements were recorded in which the complainant Kamalpreet Kaur and the accused namely Harmail Singh appeared on his behalf and on behalf of Kushdeep Singh as his power of attorney and Sukhjit Kaur expressed themselves having reached a compromise. As such, the said compromise ex facie seems to be genuine, voluntary and without any pressure, threat, coercion or undue influence between complainant and accused persons.

(iv) Whether the accused persons are involved in any other case or not.

It is hereby submitted that in view of the statement of IO of the present case the accused persons are not involved in any other case.

(v) How many victims/complainants are there in the FIR.

It is hereby submitted that in view of the statement of IO of the present case there is only

one victim/complainant in the present FIR namely Kamalpreet Kaur.”

6. Learned counsel for the petitioners contend that the marriage of petitioner no.3 was solemnized with respondent no.2 on 12.12.2015, 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-3). The petitioner no.3 has paid a sum of Rs. 12,50,000/- to respondent no.2 on account of permanent alimony. The respondent no.2 has received all her articles of istrydhan and nothing is due payable to her by the petitioner. The marriage of petitioner no.3 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 06.10.2023 passed by the learned Family Court, Ludhiana. No other case is pending between the parties.

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

8. 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 (Annexure P-3). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

9. Although, the petitioner-Khushdeep Singh Barn has been declared as proclaimed person, 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 person, 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 predominantly 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 petitioner are remote and minimal. Although the petitioner

has been declared as proclaimed person, 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.

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

11. A co-ordinate bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on **29.01.2019** has held as under:-

“Learned counsel for the petitioner has relied upon the decisions rendered by this Court in “Vikas Sharma vs. Gurpreet Singh Kohli and another (supra), 2017, (3) L.A.R.584, Microqual Techno Limited and others Vs. State of Haryana and another, 2015 (32) RCR (Crl.) 790 and “Rajneesh Khanna Vs. State of Haryana and another” 2017(3) L.A.R. 555 wherein in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under

Section 174A of IPC shall be nothing but an abuse of the process of law.”

12. Learned counsel for the petitioner and respondent no.2 are *ad idem* that the matrimonial dispute has been amicably settled between the parties. The marriage of the petitioner-Khushdeep Singh Barn and the respondent no.2 has been dissolved by a decree of divorce by mutual consent.

13. 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**.

14. 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. 30, dated 21.02.2017, under Sections 498-A, 406, 420, 354, 377, 511, 506 of the IPC, registered at Police Station Sadar Khanna, District Khanna and subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2) including the order dated 08.10.2021 passed by the Court of learned Judicial Magistrate Ist Class, Khanna, vide which the petitioner-Khushdeep Singh Barn has been

declared as proclaimed person, are ordered to be quashed,
however, qua the petitioners only.

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

October 17, 2023
vk

(Vivek Puri)
Judge

Whether reportable : Yes
Whether speaking/reasoned : Yes