

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

Date of Decision: September 12, 2023

1. CRM-M-48635-2021 (O&M)

Balwinder Singh @ Balwinder Singh and another

... Petitioner

Versus

State of Punjab and another

.... Respondents

2. CRM-M-43698-2022 (O&M)

Balwinder Singh @ Balwinder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Bhupinder Banga, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Jangveer S. Bariana, Advocate,
for respondent No.2.

Vivek Puri, J.

1. In CRM-M-48635-2021, 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. 135, dated 14.10.2016, under Sections 406, 498-A of the Indian Penal Code (for short 'IPC'), registered at Police

Station Sadar Hoshiarpur, District Hoshiarpur and subsequent proceedings arising therefrom, as well as, order dated 04.10.2017 passed by the Court of learned Additional Chief Judicial Magistrate, Hoshiarpur, vide which petitioner no.1 has been declared as proclaimed person, on the basis of compromise deed dated 13.08.2021.

2. In CRM-M-43698-2022, the petitioner is seeking to quash the FIR No. 143, dated 09.09.2022, under Section 174-A IPC, registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

3. Both the aforesaid petitions have been listed together for hearing as the same have been filed by Balwinder Singh @ Balvinder Singh-petitioner and arisen out of matrimonial dispute. As such, the afore-mentioned petitions are being deciding by a common judgment.

4. On 05.07.2023, 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 05.07.2023, the learned Additional Chief Judicial Magistrate, Hoshiarpur

has sent its report and the relevant portion thereof is reproduced as following:-

“i. In view of the statements of the complainant, accused and the official witness it is reported that Balwinder Singh @ Balvinder Singh (husband) and Paramjit Kaur (mother-in-law) have been named as accused in this case.

ii. As per statement of L/HC Anita Devi accused Balwinder Singh @ Balvinder Singh has been declared as proclaimed offender in case FIR No. 135/2016, P.S. Sadar, Hoshiarpur and FIR No. 143/2022 under Section 174A IPC has been registered against him at P.S. Sadar, Hoshiarpur.

iii. From the statements of the parties, the compromise between the parties seems to be genuine, voluntary and without any coercion or undue influence.

iv. As per statement of police official, except aforementioned case FIR No. 135/2016, P.S. Sadar, Hoshiarpur and FIR No. 143/2022, P.S. Sadar, Hoshiarpur, accused are not involved in any other case.

v. As per statement of the police official, except complainant Rajvinder Kaur there is no other victim in this case.”

6. Learned counsel for the petitioners contend that the marriage of petitioner no.1 was solemnized with respondent no.2 on 29.11.2015, 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-2). The petitioner no.1 has paid a sum of Rs. 6,00,000/- to respondent no.2 on account of permanent alimony. 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 30.03.2022 passed by the learned Family Court, Hoshiarpur. Except the FIRs in question, 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-2). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

9. Although, the petitioner 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 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 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 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. 135, dated 14.10.2016, under Sections 406, 498-A IPC, FIR No. 143, dated 09.09.2022, under Section 174-A IPC, registered at Police Station Sadar Hoshiarpur, District Hoshiarpur and subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2) including the order dated 04.10.2017 passed by the Court of learned Additional Chief Judicial Magistrate, Hoshiarpur, vide which the petitioner 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.

September 12, 2023
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(Vivek Puri)
Judge

Whether reportable : Yes
Whether speaking/reasoned : Yes