

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

242+114

**CRM No. 49770 of 2022 in/and
CRM-M No. 47650 of 2021
Date of Decision : 21.4.2023**

Chetan Sharma

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sumeet Goel, Senior Advocate with
Mr. Rohan Mittal, Advocate and
Mr. Shivam Kaushik, Advocate, for the petitioner

Mr. Jashandeep Singh, AAG, Punjab

Mr. Gaurav Pal, Advocate, for
Mr. Prateek Sodhi, Advocate, for respondent no.2/complainant

TRIBHUVAN DAHIYA J. (ORAL):

CRM No. 49770 of 2022:

For the reasons stated in the application, it is allowed. Compromise dated 18.10.2021 is taken on record as Annexure A-1.

CRM-M No. 47650 of 2021

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.96 dated 3.12.2015 under Sections 406, 498-A and 420 IPC registered at Police Station Satnampura, District Kapurthala (Annexure P-1), alongwith all consequential proceedings arising therefrom, in view of the compromise executed by respondent no.2 dated 18.10.2021 (Annexure P-9) to settle their disputes in question; and an order dated 20.8.2019 (Annexure P-4), passed by the Sub-Divisional Judicial Magistrate declaring the petitioner a proclaimed person.

2.1 Learned senior counsel has contended that the petitioner has been declared a proclaimed person without following the mandatory procedure prescribed in Section 82 Cr.P.C., therefore, the order is not sustainable in the eyes of law. He has referred to the proclamation issued by the Magistrate dated

16.7.2019 (Annexure P-2) requiring the petitioner to appear before the Court to answer the complaint on 19.7.2019, i.e., just after three days. On 19.7.2019, it was ordered that proclamation under Sections 82/83 Cr.P.C. issued against the petitioner has been effected for 18.7.2019. Since thirty days period had not elapsed, the case was adjourned to 20.8.2019 awaiting appearance of the petitioner. On 20.8.2019, on non-appearance of the petitioner, he was declared a proclaimed person vide the impugned order dated 20.8.2019, without giving thirty days notice.

2.2 As per the facts brought on record, the proclamation was issued by the Magistrate only on 16.7.2019 requiring presence of the petitioner within a period of three days. The requirement as per Section 82 Cr.P.C. is of clear notice of thirty days, before an accused can be declared a proclaimed person. Apparently, there is violation of the mandatory provision of law in declaring the petitioner as a proclaimed person, and the impugned order, therefore, is unsustainable. A reference in that regard can be made to law laid down in the judgment of this Court passed in CRM-M No. 4100 of 2015, titled *Dilbagh Singh @ Sonu v. State of Punjab*, decided on 5.5.2015 holding thus:

Perusal of Section 82 Cr.P.C. and law laid down in (*Jagdev Khan v. Emperor*, AIR (35) 1948 Lahore 151) *Jagdev Khan's case* (supra), makes it clear that in case a person is intentionally avoiding the warrants, Court is empowered to publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation and also the manner in which such proclamation shall be published. In order to ensure that an accused should have a fair opportunity to appear, 30 days clear notice is necessary and the proclamation should be published in the manner provided by law. In the instant case, proclamation of the petitioner was issued on 20.08.2014 for 23.08.2014 and vide impugned order dated 25.09.2014 petitioner was declared proclaimed offender. It is apparent on the face of record that clear notice of 30 days as mandated under Section 82 Cr.P.C. has not been given to the petitioner and the procedure for publication of proclamation has also not been followed.....

3. As the parties entered into a compromise to resolve their disputes which led to registration of the criminal case, they were directed to appear

before the Illaqa Magistrate/trial Court for getting their statements recorded in that regard, vide order dated 12.12.2022. Pursuant thereto, a report dated 5.1.2023 has been received from Judicial Magistrate Ist Class, Phagwara, at Flag 'A', stating that the compromise arrived at between the parties is without any pressure, coercion or undue influence. There is no criminal case pending against the petitioner.

4. Learned State counsel and learned counsel appearing on behalf of respondent No.2-complainant admit the factum of compromise, and submit that they have no objection to quashing of the FIR on that basis.

5. It has been held by the Supreme Court of India in cases *Gian Singh v. State of Punjab and another*, 2012(10) SCC 303 and *State of Madhya Pradesh v. Laxmi Narayan and others*, (2019) 5 SCC 688, that criminal cases having overwhelmingly civil character, particularly those arising out of commercial transactions or matrimonial relationships or family disputes, should be quashed when the parties have resolved their disputes among themselves in a *bona fide* manner by entering into a compromise.

6. Further, reference can also be made to Full Bench judgment of this Court in *Kulwinder Singh and others v. State of Punjab and another*, 2007(3) R.C.R.(Criminal) 1052, holding that on the parties settling their disputes by way of a compromise, the High Court in exercise of power under Section 482 Cr.P.C. can allow the compounding of non-compoundable offences also, and quash the criminal proceedings to prevent abuse of the process of law or otherwise to secure the ends of justice. The power is not confined to matrimonial disputes alone.

7. A perusal of the allegations in the FIR as well as the aforesaid report establishes that the present case, arising out of matrimonial relationship, falls in the category of cases that can be quashed by the High Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C., as per law laid down in the aforementioned judgments. The petitioner has no criminal antecedents. The offences alleged are not heinous in nature and cannot be termed as crime against the society; nor do they show mental depravity of the petitioner. Since disputes between the parties have been amicably resolved by way of the compromise, continuation of criminal proceedings will be an exercise in futility as chances of ultimate conviction are not there, and it will hamper their peaceful

coexistence even after resolution of disputes.

8. Consequently, this petition is allowed. The impugned order dated dated 20.8.2019, declaring the petitioner proclaimed person is hereby set aside; and in view of the compromise, FIR No.96 dated 3.12.2015 under Sections 406, 498-A and 420 IPC registered at Police Station Satnampura, District Kapurthala (Annexure P-1), and all consequential proceedings arising therefrom, are hereby quashed *qua* the petitioner.

(TRIBHUVAN DAHIYA)
JUDGE

21.4.2023
Ashwani

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