

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

Date of Decision: *December 01, 2023*

1. CRM-M-42710-2023

Sukhwinder Singh @ Sukhwinder Singh

... Petitioner

Versus

State of Punjab and another

.... Respondents

2. CRM-M-42711-2023

Sukhwinder Singh @ Sukhwinder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amandeep Singh Manaise, Advocate,
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. Iqbal Singh Saggu, Advocate,
for respondent No.2.

Vivek Puri, J.

1. In CRM-M-42711-2023, the petitioner has 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. 88, dated 19.09.2013, under Sections 406, 498-A, 420, 494, 120-B of the Indian Penal Code (for short 'IPC'), registered at Police Station Women Cell, District Patiala and subsequent proceedings arising therefrom, on the basis of compromise dated 04.08.2023 (Annexure P-4).

2. In CRM-M-42710-2023, the petitioner is seeking to quash the order dated 29.01.2020 passed by the Court of learned Judicial Magistrate First Class, Patiala, 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 the same FIR. As such, the afore-mentioned petitions are being decided by a common judgment.

4. On 28.08.2023, the parties were directed to appear before the learned Illaqa Magistrate/Trial Court to get recorded their statements regarding compromise and it was further directed that after recording their statements, the learned Court 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 28.08.2023, the learned Judicial Magistrate First Class, Patiala has sent its report and the relevant portion thereof is reproduced as following:-

“(i) As per the statement of the investigating officer and the complainant, there are three accused arrayed in the present FIR, namely, Sukhwinder Singh son of Bhupinder Singh, Bhupinder Singh son of Mangal Singh and Bhagwant Kaur wife of Bhupinder Singh, all residents of H.No. 3, near Divya Jyoti Ashram, KDP Road, Kurukshetra, Haryana.

(ii) As per the statements of the parties, Investigating Officer and as per the file, only one accused namely Sukhwinder Singh son of Bhupinder Singh has been declared as proclaimed offender in the present case. The remaining two accused namely Bhupinder Singh son of Mangal Singh and Bhagwant Kaur wife of Bhupinder Singh have been acquitted in this case.

(iii) This court has recorded the statements of the parties and after hearing the parties in person and after going through the statements recorded in the court, is of the opinion that the compromise effected between, the appearing parties seems to be genuine. They have compromised the matter voluntarily and without any coercion or undue influence and statements recorded by the parties are not the result of any pressure and coercion.

(iv) As per the statements of the parties, Investigating Officer and as per the file, no other case is pending against the accused persons.

(v) The statement of the investigating officer has also been recorded who has mentioned

that there is only one victim/complainant in the present case namely Laadi daughter of Bharpur Singh, resident of H.No. 1304, Street No. 13, Gurbax Colony, Patiala.”

6. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the respondent no.2 on 14.12.2012, but no child was born from the wedlock. The petitioner was declared as proclaimed person in terms of the order dated 29.01.2020 and during the relevant period of time, he was residing in Australia. Bhupinder Singh and Bhagwan Kaur were acquitted by the learned trial Court in terms of judgment dated 25.11.2022. The matrimonial dispute has been amicably settled between the parties in terms of compromise dated 04.08.2023 and marriage of the petitioner and respondent no.2 has been dissolved by mutual consent under Section 13-B of the Hindu Marriage Act in terms of the judgment and decree dated 21.10.2023 passed by the learned Family Court, Patiala. The petitioner has paid a sum of Rs.5,00,000/- to the respondent no.2 on account of permanent alimony. Respondent no.2 has received all her articles of Istridhan and nothing else is due payable to her by the petitioner. No other case is pending between the parties. It has been further submitted that the petitioner has surrendered in the trial Court on 09.10.2023 and was granted regular bail as operation of the impugned order was stayed.

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-4). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

9. Although, the petitioner-Sukhvinder Singh @ Sukhwinder Singh 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. 88, dated 19.09.2013, under Sections 406, 498-A, 420, 494,

120-B IPC, registered at Police Station Women Cell, District Patiala and subsequent proceedings arising therefrom, on the basis of compromise dated 04.08.2023 (Annexure P-4) including the order dated 29.01.2020 passed by the Court of learned Judicial Magistrate First Class, Patiala vide which the petitioner has been declared as proclaimed person, are ordered to be quashed, however, qua the petitioner only.

15. Resultantly, with the above-said observations made, both the aforementioned petitions i.e. CRM-M-42710-2023 and CRM-M-42711-2023 stand allowed.

December 01, 2023
vk

(Vivek Puri)
Judge

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