

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

129

CRM-M-7044-2024

Date of Decision: 12.02.2024

Alsbir Hussan @ Arshbir Hussain

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Nippun Sharma, Advocate for the petitioner.

NIDHI GUPTA, J. (ORAL)

By way of filing the present petition under Section 482 Cr.P.C., the petitioner seeks quashing of order dated 13.02.2017 (Annexure P-4), passed by the learned Judicial Magistrate Ist Class, Sultanpur Lodhi, declaring the petitioner as proclaimed offender, whilst he was abroad in case FIR No. 137 dated 10.07.2014 (Annexure P-1) registered under Section 498-A and 406 IPC at Police Station Sultanpur Lodhi.

Learned counsel for the petitioner, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. Marriage of the petitioner with respondent No. 2-complainant was solemnized on 28.08.2012 and no child was born out of the said wedlock. It is submitted that the petitioner along with his other family members, i.e. his brother-Imran Khan, father-Mohammad Hussain, sister-Fasila Begam and mother-Shehnaz Bano (since deceased) were booked and tried in the aforesaid FIR registered at the instance of respondent No.2-wife/complainant. Vide judgment of acquittal dated

24.02.2023 (Annexure P-3), Imran Khan, Mohd. Hussain and Fasila Begaum were acquitted by the trial Court; whereas proceedings against Gulzara @ Shehnaz Bano (mother of the petitioner) were abated on account of her death. During the pendency of trial, the petitioner was declared as proclaimed offender vide impugned order 13.02.2017 (Annexure P-4), whilst he was abroad. It is further submitted that now the matter has been settled between the parties vide compromise deed dated 13.09.2023 (Annexure P-6) and marriage of petitioner with respondent No. 2-complainant has also been dissolved vide decree of divorce dated 14.09.2023 (Annexure P-5). It is also submitted that since, the matter stands compromised between the parties and the marriage between the petitioner and respondent already stands dissolved, continuance of proceedings under Section 82 of the Cr.P.C. would be nothing, but an abuse of the process of law.

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab accepts notice on behalf of respondent No. 1-State and Mr. Mukesh Mehra, Advocate has put in appearance on behalf of the respondent No. 2 and submits Vakalatnama in Court today, which is taken on record.

Learned counsel for the respondent No. 2-complainant does not dispute the aforesaid submissions of learned counsel for the petitioner. Further, he admits the factum of compromise between the parties and submits that he has 'no objection' in case, the present petition is allowed and the impugned order dated 13.02.2017 (Annexure P-4) is set aside.

In Nitin Jindal vs. State of Punjab and another, 2023(1)

RCR (Criminal) 364 and Amandeep Singh and others vs. Sate of Punjab and another, 2018(2) Cri. CC 162, co-ordinate Benches of this Court have held that order of proclamation can be set aside, when proclamation proceedings are initiated while proclaimed offender is not in India.

In view of the above, the impugned order dated 13.02.2017 (Annexure P-4) declaring the petitioner to be a proclaimed offender and all subsequent proceedings arising therefrom are ordered to be set aside. The petitioner is directed to surrender before the trial Court within fortnight and move an application for regular bail, which shall be considered and disposed of by the trial Court on the same day, by accepting fresh bail/surety bonds to be furnished by the petitioner, as per satisfaction of the trial Court.

The instant petition stands disposed of, accordingly.

12.02.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No