



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-11402-2024 (O&M) and
CRM-M-11627-2024 (O&M)

Date of Decision: 08.07.2024

Gamdoor Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. S.S.Grewal, Advocate with
Ms. Prabhnoor Kaur Bains, Advocate and
Ms. Preeti, Advocate for the petitioner.

Ms. Rishu Madaan, A.A.G., Punjab.

NIDHI GUPTA, J. (ORAL)

Vide this common order, two petitions bearing Nos. CRM-M-11402-2024 and CRM-M-11627-2024 are being decided together as both these petitions are interconnected and arising out of the same FIR and filed by the same petitioner.

Prayer in these petitions under Section 482 Cr.P.C. is for quashing of FIR No. 74 dated 03.07.1997 registered under Sections 406, 498-A, 494 and 506 IPC and Section 4-B of Dowry Prohibition Act, 1961 at Police Station Sadar Malout District Sri Muktsar Sahib (Annexure P-1) alongwith all consequential proceedings arising therefrom on the basis of compromise dated 30.01.2024 (Annexure P-5);



and order dated 18.03.1999 (Annexure P-4) whereby the petitioner was declared as proclaimed offender by the learned trial Court in the said FIR.

On 05.03.2024, following order was passed by this Court:-

“Since both these petitions are arising out of same FIR and filed by same petitioner, hence, this common order is being passed in these petitions.

Prayer in the first petition (CRM-M-11402-2024) filed under Section 482 Cr.P.C. is for quashing of FIR No.74 dated 03.07.1997,(Annexure P-1), under Sections 406, 498-A, 494 and 506 IPC and Section 4-B of the Dowry Prohibition Act, 1961, registered at Police Station Sadar, Malout, District Sri Muktsar Sahib and all the consequential proceedings arising therefrom on the basis of compromise dated 30.01.2024 (Annexure P-5) effected between the parties.

Prayer in the second petition (CRM-M-11627-2024) is for quashing the order dated 18.03.1999 (Annexure P-4) passed by the learned Sub Divisional Judicial Magistrate, Malout in the FIR in question,whereby the petitioner has been declared Proclaimed Offender.

Learned counsel for the petitioner in CRM-M-11627-2024 submits that the impugned order dated 18.03.1999 (Annexure P-4 in CRM-M-11627-2024), whereby the petitioner had been declared as a ‘proclaimed offender’ is illegal since the provisions of Section 82 Cr.P.C. were not complied with and the requisite 30 days notice was not given.

Learned counsel further submits that even the petitioner was not ordinarily served as he, before his marriage with respondent No.2/complainant had already



shifted to Malaysia and got citizenship when the proclamation proceedings were initiated against him. Learned counsel submits that the petitioner is currently residing in Australia and wants to come to India to settle the proceedings and infact the matter in between the private parties has been settled and compromise dated 30.01.2024 (annexed as Annexure P-5 in CRM-M-11402-2024) has been effected. Learned counsel further submits that the petitioner is willing to surrender before the trial Court but apprehends that in view of the order declaring him a proclaimed offender, the moment he appears, he shall be taken into custody. He further submits that the petitioner has to come to India in the first week of April 2024.

With regard to the petition i.e. CRM-M-11402-2024, learned counsel for the petitioner, inter alia, submits that the present FIR emanates from the matrimonial dispute between the parties. It is submitted that petitioner is the husband of the complainant/respondent No.2 herein. Marriage of the petitioner with complainant/respondent No.2 was solemnized in the year 1991 and one daughter was born out of the said wedlock in the year 1996 in Malaysia as the petitioner already settled in Malaysia prior to the marriage and in the year 1995, the complainant/respondent No.2 also shifted to Malaysia. Due to temperamental differences, the parties could not cohabit together and started residing separately since 1997. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into compromise dated 30.01.2024 (Annexure P-5 in CRM-M-11402-2024), according to which, both the parties have agreed not to proceed further with the FIR in question. It is also submitted that since the petitioner is about 64 years of age and almost in last phase of his life, want to settle all scores



and in this regard it is settled that the petitioner will pay the present market value of the ancestral land i.e. eight acres situated at Village Buttar Kalan, Tehsil and District Moga, Punjab, as gift to his daughter being the only child. It is submitted that as per compromise, the petitioner has already paid Rs.20,00,000/- as partial payment to the complainant/respondent No.2 and the rest amount is agreed to be paid at the time of recording of statements with regard to quashing of the FIR in question. Further, it is submitted that total three persons were named in the FIR i.e. Bhajan Singh being father-in-law, Surjit Kaur being mother-in-law and Gandoor Singh being husband (petitioner herein) of the complainant/respondent No.2 and challaned as well; and since a compromise was effected between the private parties, consequently, vide judgment dated 21.3.2002 passed by the Chief Judicial Magistrate, Muktsar, co-accused Bhajan Singh (father-in-law) and Surjit Kaur (mother-in-law) were acquitted and accused Gandoor Singh, who is now petitioner herein, was declared Proclaimed Offender vide order dated 18.03.1999 (Annexure P-4 in CRM-M-11627-2024), therefore, the matter qua him was ordered to be consigned sine-die.

Notice of motion.

On the asking of Court, Mr. Sukhsandesh Singh Chahal, AAG, Punjab, accepts notice on behalf of respondent No.1-State; whereas Mr.Balkar Singh Sidhu, who is present in Court accepts notice on behalf of respondent No.2 and submits Vakalatnama, which is taken on record.

Learned counsel for respondent No.1-State as well as learned counsel for respondent No.2 have not disputed the aforesaid submissions made by learned counsel for the petitioner in CRM-M-11402-2024 and the factum of



compromise effected between the parties.

I have heard learned counsel for the parties.

Prima facie, finding order dated 18.3.1999 (Annexure P-4 in CRM-M-11627-2024) declaring the petitioner to be Proclaimed Offender, being in non-compliance of the mandatory provisions of Section 82 Cr.P.C., the petitioner is directed to surrender before the learned trial Court within 15 days from today and move an application for regular bail, which shall be disposed of on the same day by accepting fresh bail bonds and surety bonds to be furnished by the petitioner, to the satisfaction of the learned trial Court.

Meanwhile, the private parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise dated 30.01.2024 (Annexure P-5 in CRM-M-11402-2024) on 09.04.2024 by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report qua statements with regard to the compromise dated 30.01.2024 (Annexure P-5 in CRM-M-11402-2024) on or before the next date of hearing i.e. 31.05.2024 containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the*



compromise in question.

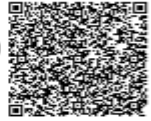
A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.

Photocopy of this order be placed in the file(s) of connected matter(s).

Vide common order dated 22.03.2024 passed by this Court in CRM-12604-2024 in CRM-M-11402-2024 and CRM-12518-2024 in CRM-M-11627-2024, the said applications for modification of order dated 05.03.2024 were allowed and the time for surrendering the applicant/petitioner before the learned trial Court was extended upto 30 days in the said FIR.

Learned counsel for the State, on instructions from ASI Rajpal Singh, informs that in compliance of the orders dated 22.03.2024 and 05.03.2024 passed by this Court, the petitioner has surrendered before the learned trial Court and has been granted the bail. It is further informed that pursuant to the order dated 05.03.2024 passed by this Court, the parties appeared before the learned Judicial Magistrate 1st Class, Malout, District Sri Muktsar Sahib, to get their statements recorded. Learned Judicial Magistrate 1st Class, Malout, District Sri Muktsar Sahib has submitted his report along with statements of the parties vide letter dated 22.04.2024 duly forwarded by the learned District and Sessions Judge, Sri Muktsar Sahib on 29.04.2024.

A perusal of the above said report would show that four accused namely Bhajan Singh, Surjeet Kaur, Gamdoor Singh and Davinder Kaur were involved in the present case. Vide order dated 21.03.2002, Bhajan Singh and Surjeet Kaur were acquitted and vide



order dated 23.09.1998 proceedings against accused Davinder Kaur were quashed. Gamdoor Singh, the present petitioner was declared proclaimed offender vide order dated 18.03.1999 and now on 03.04.2024, he has surrendered before the Court and granted bail. The petitioner and respondent No. 2 have appeared and suffered statements with respect to the compromise, which have been found to be valid, genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioner submits that the present FIR emanates from the matrimonial dispute between the parties. He further submits that as per report, the present petitioner and respondent No.2 are the only party to the compromise. There is no other case pending against the petitioner.

Learned State counsel has stated that he has 'no objection' in case the FIR is quashed on the basis of compromise qua the petitioner.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned Judicial Magistrate 1st Class, Malout, District Sri Muktsar Sahib, this Court finds that the matter has been amicably settled between the petitioner and respondent No. 2. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in ***"Kulwinder Singh and others Vs State of Punjab", 2007 (3) RCR (Criminal) 1052***, it is held that High Court has power under Section 482



Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of ***“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543***, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced here-in-below:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.”

In view of what has been discussed here-in-above, these petitions are allowed and FIR No. 74 dated 03.07.1997 registered under Sections 406, 498-A, 494 and 506 IPC and Section 4-B of Dowry Prohibition Act, 1961 at Police Station Sadar Malout District Sri Muktsar Sahib (Annexure P-1) alongwith all consequential proceedings arising therefrom on the basis of compromise dated 30.01.2024 (Annexure P-5) are ordered to be quashed qua the petitioner; and order

dated 18.03.1999 (Annexure P-4) declaring the petitioner as proclaimed offender is also set aside.

Pending application, if any, stands disposed of.

08.07.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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