

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

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CRM-M-34314-2022 (O&M)
Date of decision: 07.02.2024

1. CRM-M-34314-2022 (O&M)

Ashish Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

2. CRM-M-48580-2022 (O&M)

Vijay Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

Date of decision : 07.02.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rakesh Gupta, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Arjun Attri, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of above mentioned two
petitions as they are similar in nature and arise out of the same FIR.

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2. The present petitions have been filed by the petitioners under Section 482 of Code of Criminal Procedure for quashing of FIR No. 151 dated 18.10.2017, filed under Sections 323, 406, 498-A and 506 of the IPC, registered at Police Station Women Ambala, District Ambala (Annexure P-1) along with all the subsequent proceedings arising therefrom, on the basis of compromise deed dated 15.07.2022 (Annexure P-7), including order dated 14.12.2021 (Annexure P-6), whereby petitioner Ashish Kumar had been declared a proclaimed person.

3. The aforementioned FIR was registered on written complaint filed by respondent No.2/complainant alleging therein that she was married to petitioner Ashish Kumar on 12.05.2007 according to Hindu rites and ceremonies. Huge amount of money was spent in the marriage and sufficient dowry articles were given in her marriage. However, the complainant was not treated well by her in-laws. Her entire *Istridhan* was kept by her mother-in-law. She was pressurized to bring an amount of Rs. 50,000/- from her father. She was extended beatings by the accused persons on account of demand of dowry and was also criminally intimidated. On these allegations, FIR was registered and investigation proceedings were initiated. After completion of investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court on 12.04.2019 for trial of the accused for commission of aforesaid offences and the trial is going on. However, since the presence of petitioner Ashish Kumar could not be procured, he was declared a proclaimed person by the trial Court by passing the impugned order dated 14.12.2021.

4. The present petitions have been filed by the petitioners on the grounds and it has been argued by their counsel that a compromise has been

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arrived at between the parties and they have resolved their *inter se* dispute, which was reduced into writing as compromise dated 15.07.2022 (Annexure P-7), as per which, they have decided to live together peacefully. It is also submitted that petitioner Ashish Kumar was regularly appearing before the trial Court. However, he was being threatened by the complainant that she would take the forcible custody of the child, therefore, out of said fear, he started living in Uttar Pradesh but he always remained in touch with his counsel. However, inadvertently, he lost all his contact numbers including the phone number of his counsel, which led to communication gap between them and he was not represented before the trial Court. Consequent to which, he was declared a proclaimed person. However, on the basis of said compromise, the petitioners have prayed for quashing of the aforesaid FIR as well as order dated 15.12.2021, declaring him a proclaimed person, and all the subsequent proceedings emanating therefrom on the ground that continuation of such proceedings would be a futile exercise.

5. Learned counsel for respondent No. 2/complainant has admitted to the factum of compromise entered into between the parties and has stated that the complainant has no objection if the present petitions are allowed and the impugned FIR as well as order dated 15.12.2021, declaring petitioner Ashish Kumar a proclaimed person, are quashed by this Court.

6. This Court vide order dated 12.12.2022, had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court was also directed to send his/her report along with the said statements.

7. Pursuant to the aforesaid order, the Judicial Magistrate Ist Class, Ambala has sent a report dated 13.02.2023 to this Court along with the joint statement of respondent No.2/complainant as well as petitioners recorded on 10.02.2023. The statement of ASI/Investigating Officer Ms. Omi is also attached with the report.

8. On the basis of these statements, it is submitted by learned Magistrate that the compromise effected between the parties is genuine, out of free will and without any pressure or coercion. It is also mentioned in the report that there were three accused in the FIR but the *challan* was filed only against petitioner Vijay Kumar as accused Urmila, who is wife of Vijay Kumar, was found innocent during investigation and petitioner Ashish Kumar was declared a proclaimed person. It is also reported that the complainant has stated that she has no objection if the FIR as well as order dated 15.12.2021 are quashed qua the petitioners.

9. I have heard learned counsel for the parties and besides perusing the report sent by learned Judicial Magistrate, have also perused the record.

10. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the abuse of process of law or otherwise to secure the ends of justice. Such power is not confined to matrimonial disputes alone. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent

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jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases relating to offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as *Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543 and Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466.*

11. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse of process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C.

12. A perusal of the zimini orders passed by the trial Court, which have been placed on record, also shows that while declaring petitioner Ashish Kumar a proclaimed person, the mandatory provisions prescribed under Section 82 Cr.P.C. have not been followed by the trial Court in its true spirit.

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Hence, this Court is of the opinion that the ends of justice would be met in putting to rest the ongoing legal battle between the parties and hence, by exercising the power under Section 482 Cr.P.C., order dated 14.12.2021, by virtue of which, petitioner Ashish Kumar had been declared a proclaimed person, is ordered to be quashed as no useful purpose would be served. Further, on the basis of the compromise dated 15.07.2022 (Annexure P-7) and statements of the parties, FIR No. 151 dated 18.10.2017, filed under Sections 323, 406, 498-A and 506 of the IPC, registered at Police Station Women Ambala, District Ambala (Annexure P-1) including and all the subsequent proceedings arising therefrom, is also ordered to be quashed qua the petitioners.

13. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

14. Let a photocopy of this order be placed on the file of connected case.

07.02.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>