

(2020) 09 P&H CK 0276

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 26119 Of 2020 (O&M)

Hatinder Bains And Anr

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 15-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 120B, 406, 498A, 504, 506

Citation : (2020) 09 P&H CK 0276

Hon'ble Judges : Arun Kumar Tyagi, J

Bench : Single Bench

Advocate : Narinder S. Lucky, Naveen Singh Panwar, Shubhashish Kukreti

Final Decision : Allowed

Judgement

Arun Kumar Tyagi, J

(The case has been taken up for hearing through video conferencing.)

CRM-22944-2020

For the reasons mentioned in the application, the same is allowed and affidavit of Gian Chand (Attorney of petitioners) is taken on record as Annexure P-5.

CRM-22991-2020

For the reasons mentioned in the application, the same is allowed and affidavit of complainant-respondent No.2 is taken on record as Annexure R-1/2.

CRM-M-26119-2020

Petitioners-Hatinder Bains and Rajender Kaur have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of Complaint No.105 dated 08.04.2011 registered under Sections 498-A, 406, 504, 506 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') and quashing of order dated 01.04.2016 passed by learned Judicial Magistrate Ist Class,

Jagadhri whereby the petitioners were wrongly declared proclaimed persons with all consequential proceedings arising therefrom in view of the compromise dated 03.08.2020 (Annexure P-3) effected with respondent No.2- Sunita Rani.

Briefly stated the facts relevant for disposal of the present petition are that respondent No.2 Sunita Rani filed criminal complaint bearing case No.105/1 of 2011 titled 'Sunita Rani versus Hatinder Bains and others regarding alleged commission of offences punishable under Sections 498-A, 406, 504, 506 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') by her husband Hatinder Bains, mother-in-law Rajinder Kaur (the petitioners) and maternal grand mother-in-law Piari on the allegations that marriage of respondent No.2 was solemnized with Hatinder Bains on 07.02.2009 as per Hindu rites and ceremonies at Nagra Resort, Adda Paldi Tehsil Garshankar, District Hoshiarpur and that the petitioners in criminal conspiracy treated her with cruelty by making of dowry demands, abused and threatened her and misappropriated her dowry articles. On being summoned to face trial, the petitioners did not appear before the learned Judicial Magistrate First Class, Jagadhari despite publication of proclamation on which the petitioners were declared proclaimed persons vide order dated 01.04.2016. Co-accused Pyari was discharged by learned Judicial Magistrate First Class, Yamuna Nagar at Jagadhri vide order dated 31.03.2017 whereby the file was ordered to be consigned to the record room due to the present petitioners having being declared proclaimed persons.

The petitioners have filed the present petition for quashing of the complaint and order dated 01.04.2016 on the grounds that now the matter has been amicably compromised between the parties and they have decided to live together.

Vide order dated 08.09.2020, this Court directed the petitioners and complainant to file affidavits in respect of execution of the compromise between them and to remain present before this Court through video conferencing.

In compliance with the above said order, Gian Chand maternal grand father of petitioner No.1 and father of petitioner No.2 has filed the affidavit on behalf of the petitioners and respondent No.2 complainant has filed her affidavit that compromise dated 03.08.2020 has been executed with free will and without any pressure and the compromise is genuine and is not a false document. The petitioners and respondent No.2 complainant have also appeared through video conferencing before this Court.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and gone through the relevant record.

In the above referred complaint case the petitioners were declared proclaimed persons vide order dated 01.04.2016. In the complaint itself respondent No. 2-complainant had mentioned that the petitioners were residing in Italy. The petitioners could not be declared proclaimed persons on the basis of proclamation published in India without effecting service on them in Italy through the prescribed procedure. Consequently, the impugned order dated

01.04.2016 declaring the petitioners as proclaimed persons suffers from material illegality and is liable to be quashed.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052 ; Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255.

Learned State Counsel has no objection in case the complaint along with all subsequent proceedings arising therefrom is quashed on the basis of compromise effected between the parties in this case.

The offences involved in the present case are overwhelmingly and predominantly of private character. The parties have resolved their entire dispute. The compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society. In view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak. Continuation of this case will put the petitioners to great oppression and extreme injustice would be caused to the petitioners if the FIR and all consequential proceedings are not quashed.

In view of the above discussion, the petition is allowed and complaint No.105/1 of 2011 titled 'Sunita Rani versus Hatinder Bains and another' registered under Sections 498-A, 406, 504, 506 and 120-B of the IPC and order dated 01.04.2016 passed by learned Judicial Magistrate First Class, Jagadhari are quashed with all consequential proceedings arising therefrom.