

Before Suvir Sehgal, J.

BHUPINDERJEET @ BHOLA —*Petitioner*

versus

STATE OF PUNJAB AND ANOTHER—*Respondent*

CRM-M No.123 of 2020

November 25, 2020

Code of Criminal Procedure, 1973—S. 82 and 438—Quashing of cross case on the basis of compromise, and the order declaring the petitioner a proclaimed offender—S. 82, Cr.P.C.—DDR under S.323, 324, 148 and 149 Indian Penal Code in FIR under Sections 323, 324, 325, 148 and 149 IPC—Statements of parties recorded before the SDJM who reported that the compromise in question was voluntary, but two accused had been declared proclaimed offenders—Held, object of S.82 is to secure presence of the accused—Once that is achieved, the order declaring proclaimed offender would cease to operate—Since the petitioner has appeared before the trial Court and was granted regular bail, his absence stands regularized and default condoned—Accordingly, the petition was accepted, impugned DDR and order declaring petitioner a proclaimed offender was quashed.

Held, that Hon'ble Supreme Court in *Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543* has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The Hon'ble Full Bench of this Court in case *Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052* and Hon'ble Division Bench of this Court in case *Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102* held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving non-compoundable offences.

(Para 6)

Further held, that still further, the objective of Section 82 of Code of Criminal Procedure is to secure the presence of the accused. As held by this Court in *Smt. Deeksha Puri Vs. State of Haryana*

2013(1) RCR (Criminal) 159, once the purpose is achieved, the order of declaration of proclaimed offender would cease to be operative. In the present case, the petitioner has appeared before the trial Court and has been granted regular bail by order dated 04.02.2020 (Annexure A.1). He has joined the proceedings before the trial Court. With the grant of bail, the absence of the petitioner stands regularised and the default stands condoned. Consequently, the order Annexure P.4 declaring the petitioner a proclaimed offender deserves to be set aside.

(Para 7)

Kamaldip Singh Sidhu, Advocate, *for the petitioner.*

H.S. Multani, AAG, Punjab

Amardeep Singh, Advocate, for complainant.

SUVIR SEHGAL, J. (Oral)

(1) The Court has been convened through Video conferencing due to Covid-19 pandemic.

CRM-28725 of 2020

(2) Allowed as prayed for. Order dated 04.02.2020 is taken on record as Annexure A.1.

Main case

(3) The instant petition has been filed for quashing of cross case DDR dated 24.10.2007 (Annexure P-2) under Sections 323, 324, 148, 149 of IPC in FIR No.302 under Sections 323, 324, 325, 148, 149 of IPC registered at Police Station Phillaur, District Jalandhar, on the basis of compromise, dated 16.12.2019 arrived at between the parties alongwith all subsequent proceedings arising therefrom and order dated 21.01.2010 (Annexure P.4) vide which the petitioner was declared a proclaimed offender, as the other co-accused of the petitioner have been acquitted by the SDJM, Phillaur, vide judgment dated 06.02.2013 (Annexure P.3).

(4) Vide order dated 05.02.2020 the parties were directed to appear before the Illaqa Magistrate/trial Court to get their statements recorded regarding the compromise and a report was called for from the Court.

(5) After recording the statements of the accused-petitioners and complainant-private respondents, the Sub-Divisional Judicial Magistrate, Sunam has reported on 02.03.2020 that the compromise in

question is genuine, voluntary and without any coercion or undue influence. The court has further reported that two accused namely Sonu S/o Nand Lal and Bhupinderjeet @ Bholu s/o Gian Chand, both residents of Mohalla Tibbewal, PS Phillaur have been declared as proclaimed offender vide order dated 21.01.2010.

(6) Hon'ble Supreme Court in *Gian Singh versus State of Punjab and another*¹ has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The Hon'ble Full Bench of this Court in case *Kulwinder Singh versus State of Punjab and another*² and *Hon'ble Division Bench of this Court in case Sube Singh and another versus State of Haryana and another*³ held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving noncompoundable offences.

(7) Still further, the objective of Section 82 of Code of Criminal Procedure is to secure the presence of the accused. As held by this Court in *Sml Deeksha Purr versus State of Haryana*⁴, once the purpose is achieved, the order of declaration of proclaimed offender would cease to be operative. In the present case, the petitioner has appeared before the trial Court and has been granted regular bail by order dated 04.02.2020 (Annexure A.1). He has joined the proceedings before the trial Court. With the grant of bail, the absence of the petitioner stands regularised and the default stands condoned. Consequently, the order Annexure P.4 declaring the petitioner a proclaimed offender deserves to be set aside.

(8) Counsel for the parties are also ad idem that in view of the settlement of the dispute between the parties, the present petition deserves to be accepted and impugned DDR and order declaring the petitioner as proclaimed offender deserves to be quashed. In view of the above, no purpose will be served in continuing with the criminal proceedings.

¹ 2012(4) RCR (CrI.) 543

² 2007(3) RCR (CrI.) 1052

³ 2013(4) RCR (CrI.) 102

⁴ 2013(1) RCR (CrI.) 159

(9) Accordingly, the petition is allowed. DDR dated 24.10.2007 (Annexure P-2) under Sections 323, 324, 148, 149 of IPC in FIR No.302 under Sections 323, 324, 325, 148, 149 of IPC registered at Police Station Phillaur, District Jalandhar, order dated 21.01.2010 (Annexure P.4) and all the consequent proceedings arising therefrom, as well as order are quashed qua the petitioners.

Tribhuvan Dahiya