

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

267

CRM-M-4939-2020

Date of Decision: 21.03.2024

Barinder Singh and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. HPS Ishar, Advocate for the petitioners.

Mr. S.S. Chahal, AAG, Punjab.

None for respondent No. 2.

**NIDHI GUPTA, J. (ORAL)**

Petitioner No. 1-husband; petitioners No. 2 and 3 parents-in-law and petitioners No. 4 and 5, sister-in-law and brother-in-law (*Nanad and Nandoiya*) of respondent No. 2-complainant have filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 16 dated 08.02.2019 (Annexure P-1) registered under Sections 498-A and 406 IPC at Police Station City-II, Mansa, District Mansa and all the consequential proceedings arising therefrom, on the basis of Settlement/Agreement dated 07.01.2020 (Annexure P-2), arrived at between the parties before the Mediation and Conciliation Centre of this Court.

On 04.02.2020, while issuing notice of motion in the matter, a co-ordinate Bench of this Court directed the parties to appear before the learned Illaqa Magistrate/trial Court for recording their statements qua

genuineness of compromise.

Pursuant to the order dated 04.02.2020 passed by a co-ordinate Bench of this Court, the parties appeared before the learned Chief Judicial Magistrate, Mansa to get their statements recorded. Learned Chief Judicial Magistrate, Mansa, has submitted her report along with of copies statements of the parties vide letter dated 13.03.2020 duly forwarded by the learned District and Sessions Judge, Mansa.

A perusal of the above said report would show that the petitioners and respondent No. 2 have appeared and suffered statements with respect to the compromise, which have been found to be genuine, with free consent, without any pressure, undue influence, coercion or fear and none of the accused has been declared proclaimed offender.

Thereafter, when this matter was listed for hearing on 03.05.2023, following order was passed by a co-ordinate Bench of this Court:-

*“Despite notice of motion having been issued on 04.02.2020, no one has put in appearance on behalf of respondent No. 2-complainant, despite being duly served. However, in compliance of the said order, the parties have also got their statements recorded and a report has been received from the trial Court, wherein, it has been recorded that the compromise seems to be genuine, with free consent, without any pressure, undue influence, coercion or fear.*

*Learned counsel for the petitioners submits that the parties have been granted the decree of divorce by way of mutual consent, therefore, respondent No. 2 is not coming forward, despite being duly served.*

*In the light of the above, let notice be issued again to respondent No. 2 for 30.05.2023.*

*Dasti as well.*

*In case, respondent No. 2 fails to appear, the Court shall proceeding in accordance with law.”*

On the next date of hearing i.e. 05.07.2023 fresh notice was ordered to be issued through ordinary process as well as through *Dasti*

process for 22.11.2023.

As per office report dated 19.03.2024, fresh notice issued to respondent No. 2 has been received back duly served, however, none has put in appearance on her behalf.

Learned counsel for the petitioners submits that the present FIR emanates from the matrimonial dispute between the parties. It is further submitted that in terms of settlement/agreement dated 07.01.2020 (Annexure P-2), the parties have been granted the decree of divorce by way of mutual consent and petitioner No. 1-husband has paid the entire amount of Rs.45,00,000/- to respondent No. 2-complainant in terms of Clause 5(f) of the Settlement/Agreement dated 07.01.2020 (Annexure P-2), therefore, she is not coming forward, despite service.

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

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

After perusing the report submitted by the learned Chief Judicial Magistrate, Mansa, this Court finds that the matter has been settled between the petitioners and respondent No. 2. Petitioner No. 1 and respondent No. 2 have already been granted decree of divorce by way of mutual consent and petitioner No. 1 had also paid the entire amount of Rs.45,00,000/- to the complainant/respondent No. 2 in terms of Clause 5(f) of the Settlement/Agreement dated 07.01.2020 (Annexure P-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.

At this stage, reference may be made to the judgment of *“Ruchi Agarwal Vs. Amit Kumar Agrawal” Law Finder Doc ID # 78949; and Mohd. Shamim v Smt. Nahid Begum, Law Finder Doc Id # 81379*, wherein it has been held that in criminal/civil litigation between the husband and wife, once the parties have entered into compromise and have sought divorce by mutual consent, if the wife does not withdraw FIR under Sections 498-A and 506 IPC then it is clear that the wife wants to harass the husband even after getting the relief and in such cases FIR ought to be quashed.

In the said case **Ruchi Agarwal** (supra), the wife filed SLP before the Hon’ble Supreme Court challenging the order of the Hon’ble Uttaranchal High Court whereby criminal complaint filed by the wife against the respondent husband was quashed. Facts were similar therein as the appellant-wife had resiled from compromise. In these circumstances, the Hon’ble Supreme Court quashed the FIR registered under Sections 498A, 323 and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Para 8 of said judgment reads as under:-

*“8. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No. Cr. No. 224/2003 registered in Police Station, Bilaspur, (Distt. Rampur) filed under sections 498A, 323 and 506 Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of”.*

In **Mohd. Shamim** (supra) Hon’ble Supreme Court held as under: -

*“A. Criminal Procedure Code, Section 320-Indian Penal*

*Code, Section 406 and 498A - Compounding of offence - FIR under Sections 498A, 406 Indian Penal Code-Wife entering into settlement at intervention of court and accepting Rs. 2.25 lacs from husband - Wife backed out - FIR quashed - In view of conduct of wife, continuance of proceedings would be abuse of process of Court.*

*B. Criminal Procedure Code, Sections 320 and 482 - Indian Penal Code, Sections 498A and 406 - Compounding of offence-FIR under Sections 498A, 406 Indian Penal Code-Parties entering into settlement at the intervention of trial Judge- Wife accepted Rs. 2.25 lacs and another sum of 50,000 to be paid at the time of quashing the FIR- Petition for quashing of FIR-Wife backed out and stated agreement and affidavit were got signed by misrepresentation - FIR quashed - In view of conduct of wife continuance of Criminal proceedings would be an abuse of process of the Court. 2004(4) RCR (Criminal) 949 (SC) relied”.*

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, this petition is allowed and FIR No. 16 dated 08.02.2019 (Annexure P-1) registered under Sections 498-A and 406 IPC at Police Station City-II, Mansa, District Mansa and all the consequential proceedings arising therefrom, on the basis of Settlement/Agreement dated 07.01.2020 (Annexure P-2), are ordered to be quashed qua the petitioners.

21.03.2024  
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( NIDHI GUPTA )  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |