



CRM-M-23703-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-23703-2024

Date of decision: 13.05.2024

Nitish Kumar @ Natesh Kumar and others

..... Petitioners

Versus

State of Punjab and another

..... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Virshank Suri, Advocate for the petitioners.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed under Section 482 Cr.P.C., is for quashing of FIR No. 76 dated 14.07.2022 (Annexure P-1) registered under Section 304-B read with Section 34 IPC at Police Station Shimlapuri, District Ludhiana and all the consequential proceedings arising therefrom on the basis of compromise deed dated 12.04.2024 (Annexure P-2) effected between the parties.

2. The aforesaid FIR was registered on the basis of statement made by father of the deceased/respondent No. 2 herein, which reads as under:-

“Statement of Bal Chand son of Bej Nath, resident of house number 1983/51, Gali Number 8/3; Mohalla Guru Gobind Singh Nagar, Barota Road, Shimlapuri, Ludhiana, aged about 65 years, phone number 92177-27905. It is stated that I am living on the above said address with my family and I have my own work. My wife’s name is Sonmati. I have two sons and three daughters. The eldest daughter is Sita, aged about 35 years, the one younger to her is named Rita aged 33



years, the son younger to her is Shyam Sundar aged about 29 years, the one younger to him is Sajan aged about 24 years and the name of the youngest daughter is Suman and she is 23 years old. In the year 2017, my daughter got married to Nitish Kumar @ Laddi, S/o Shamsheer Singh, R/o Gali Number 26 Mohalla Guru Gobind Singh Nagar Barota Road, Shimlapuri Ludhiana. Our entire family was against this marriage, Suman was living with her in laws in the said house. Shortly after the solemnization of her marriage, her mother-in-law Sunita and her sister-in-law Ritu Rani started troubling her and started making demands for dowry. They started fighting in the family and would tell her that you did not bring anything after marriage whereas we wanted to get a lot of things on account of the marriage of our Nitish. She told me also about this after which I complied with their demands. Then Nitish Kumar started beating my daughter and he would say, ask ₹2 lakh from your father, I want to open my own business pertaining to electricity. My daughter started living in depression. Many Panchayat meetings were convened on account of their fights. They started living away from their parents in a separate house on the first floor. My daughter gave birth to a baby boy in the year 2021 but these demands still did not stop. My daughter Suman was beaten by Nitish, her mother-in-law Sunita and her sister-in-law Ritu Rani plenty of times. They would say that they would shunt her out of the house and get Nitish married again. On 13.07.2022, I got information that my daughter had died. I reached there with my daughters and family and saw that my daughter had died. There were rope marks on her neck. I am of the firm belief that my daughter Suman was murdered by suffocation on account of demands of dowry and its inadequacy thereof by Nitish, her mother-in-law Sunita and her daughter Ritu Rani.....”

3. Learned counsel for the petitioner, *inter alia*, submits that petitioner No.1 is the husband; whereas petitioners No. 2 and 3 are the mother-in-law and sister-in-law of the deceased, respectively. Marriage of petitioner No. 1 with the deceased was solemnized in the year 2017. It was a love marriage. It is submitted that during the subsistence of marriage daughter of respondent No. 2/complainant unfortunately died on



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13.07.2022. On account of un-natural death of his daughter and some misunderstanding on the part of respondent No. 2-complainant, he had lodged the present FIR against the petitioners. Learned counsel submits that petitioner No. 1-husband is still confined in Central Jail, Ludhiana; whereas petitioner No. 2/mother-in-law was granted the concession of bail by the learned trial Court vide order dated 21.12.2023; and petitioner No. 3-sister-in-law/*Nanad* was enlarged on regular bail by this Court vide order dated 28.08.2023. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into compromise dated 12.04.2024 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. Further, it is submitted that the petitioners are the only accused in the present case and they have never been declared as proclaimed offenders(s).

4. Notice of motion.

5. On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of respondent No. 1-State and Mr. Dushyant Godara, Advocate who is present in Court, accepts notice on behalf of respondent No. 2-complainant and files Vakalatnama in Court, which is taken on record.

6. Learned counsel for the respondent No. 2-complainant has not disputed the aforesaid submissions of learned counsel for the petitioners.



7. On the other hand, learned counsel for the State vehemently opposes the prayer for quashing of FIR on the basis of compromise and submits that specific allegations have been levelled against the petitioners. Learned counsel for the State refers to the contents of FIR (Annexure P-1) (at page 11 of the paper-book) wherein respondent No. 2/complainant has stated that *‘there were rope marks on her neck’*. On instructions from ASI Harbhol Singh, learned counsel for the State submits that after completion of investigation, challan has been presented before the learned trial Court on 12.09.2022; and charges have also been framed by the learned trial Court on 21.07.2023. Out of total 12 prosecution witnesses, none has been examined so far. Lastly, learned counsel for the State submits that keeping in view the gravity of offence punishable under Section 304-B IPC, the present FIR cannot be quashed on the basis of compromise.

8. I have heard learned counsel for the parties.

9. Admittedly, daughter of complainant/respondent No. 2 had performed love marriage with petitioner No. 1 in the year 2017. As per allegations levelled in the FIR, soon after the marriage, the petitioners have started harassing and maltreating the deceased for demand of dowry and also gave beatings to her. She died un-natural death on 13.07.2022 and rope marks were noticed on her neck. Later on, the matter has amicably been settled between the petitioners and respondent No. 2-complainant, vide compromise dated 12.04.2024 (Annexure P-2).



10. In support of his contentions, learned counsel for the petitioners has placed reliance upon a Full Bench judgment of this Court in ***“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052***, wherein, it is held that High Court has inherent powers under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the parties have settled their disputes amicably and 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.

11. At this stage, reference may be made to a three-Judge Bench Judgment of the Hon'ble Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr. (2017) 9 SCC 641***, wherein it has been held that where serious and grave offences are involved, the quashing of FIR cannot be allowed on the basis of the compromise. The Hon'ble Supreme Court laid down the following broad principles which emerged from precedents in respect of the inherent power of the High Court to quash the first information report or the criminal proceedings as under:-

“16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of



jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and



16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(Emphasis added)

12. This Court upon consideration of the complete facts and circumstances of the present case, is in consonance with the abovesaid view taken by the Hon’ble Supreme Court. In the present case it has been alleged that a woman had committed suicide within 5 years of marriage due to harassment caused by the husband and his family members. The offence under Section 304-B IPC is not only grave and heinous offence, but an offence against the society actuated by the social evil of demand of dowry, thus needs deterrence and, therefore, cannot be quashed on the basis of settlement arrived at between the accused/petitioners herein and the complainant.

13. In view of what has been discussed here-in-above, the instant petition being completely devoid of any merit is **dismissed**.

14. However, nothing stated here in above shall be construed to be an expression of opinion on the merits of the matter.

13.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No