



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

236

CRM-M-47689-2022

Date of Decision: 16.10.2024

Gaurav Nasa

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Gaurav Phogat, Advocate for
Mr. Satpal Bhasin, Advocate for the petitioner.

Mr. Aditya Pal Singla, AAG, Haryana.

Mr. Yashvir Kharb, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioner who is the husband of respondent No. 2-complainant, has filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 0117 dated 07.07.2021 (Annexure P-1) registered under Sections 323, 406, 498-A and 506 read with Section 34 IPC at Women Police Station Panipat, District Panipat and all the consequential proceedings arising therefrom, on the basis of compromise encapsulated in the terms of decree of divorce by way of mutual consent dated 31.05.2022 (Annexure P-3) passed by the learned Family Court, Panipat.

On 05.07.2024, when this case was listed for hearing, following order was passed by this Court:-

“On the last date of hearing i.e. 15.02.2024, when this case was listed for hearing, following order was passed by



this Court:-

“Present petition under Section 482 Cr.P.C. is filed seeking quashing of FIR No.117 dated 07.07.2021 under Sections 323, 406, 498-A, 506 and 34 IPC registered at Women Police Station Panipat, District Panipat (Annexure P1); and all other subsequent proceedings arising therefrom, on the basis of decree of dissolution of marriage by way of mutual consent dated 31.05.2022 passed by learned Additional Principal Judge, Family Court, Panipat in case No.DMC-769-2021 instituted on 08/10.11.2021.

Learned counsel for the petitioner/husband inter alia submits that the petitioner was married to respondent No.2 on 24.10.2020. They started residing separately within a few days thereafter, since 01.11.2020. No child was born out of their wedlock. The present FIR was registered on 07.07.2021 i.e almost one year after the complainant left the matrimonial home. FIR was against 8 persons, of whom 7 were exonerated and challan was filed only against the present petitioner on 13.09.2021. In the meantime, petition under Section 13-B of Hindu Marriage Act, 1955 was filed on 13.07.2021; and parties were granted divorce there under vide decree dated 31.05.2022 (Annexure P3). Learned counsel submits that as per the settlement between the parties, the petitioner had agreed to pay Rs.5 lakh as full and final settlement and all pending litigations between the parties were to be withdrawn. In this regard, learned counsel refers to the joint statement made by the parties before the learned Family Court, Panipat (Annexure P4), wherein the respondent has admitted that “It has been agreed between the petitioners that the petitioner No.2 shall pay a sum of Rs.5,00,000/- to the petitioner No.1. Out of the settled amount Rs.2,50,000/- has already been received by the petitioner no.1 from the petitioner no.2 at the time of the recording of the statement of first motion. The remaining amount of Rs.2,50,000/- is paid today to the petitioner no. 1 Prerna by the petitioner no. 2 Gaurav Nasa in the shape of demand draft bearing no.086566 dated 30.05.2022 of Indian Bank.” Learned counsel submits that accordingly, the petitioner has fulfilled his part of the settlement in as much as, admittedly, he has paid Rs.5 lakh to the complainant on 31.05.2020. However, despite that, she is not coming forward to withdraw all pending litigations between the parties;



and after receiving the full payment respondent No.2 is not coming forth for recording of her statement in the present case. It is further submitted that the respondent No.2 has re-married thereafter. Learned counsel relies upon judgment of Hon'ble Supreme Court in **“Ruchi Agarwal Vs. Amit Kumar Agrawal” Law Finder Doc ID # 78949**, wherein it has been held as under:-

“A. Criminal Procedure Code, Sections 320 and 482 – Indian Penal Code, Sections 498A and 506 – Criminal and Civil litigation between husband and wife – Parties entering into compromise and getting divorce by mutual consent – Wife, however, not withdrawing FIR under sections 498A and 506 Indian Penal Code, despite compromise – FIR quashed – Wife wanted to harass her husband even after getting the relief”.

The legal position in such like cases is very clear. However, today, there is no representation on behalf of respondent No.2.

Accordingly, in the interest of justice, the matter is adjourned to 05.07.2024. Registry is directed to inform learned counsel for the respondent No.2 about the date fixed. Interim order to continue.”

In view of the above, learned counsel for petitioner as well as learned counsel for respondent No. 2 submit that the parties may be directed to appear before the learned trial Court/Illaq Magistrate, for recording their statements for quashing of impugned FIR (Annexure P-1), on the basis of decree of dissolution of marriage by way of mutual consent dated 31.05.2022 passed by learned Additional Principal Judge, Family Court, Panipat in case No. DMC-769-2021 instituted on 08/10.11.2021.

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements on or any other date convenient to the learned trial Court by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing i.e. **16.10.2024** containing the following information:-

1. Number of persons arrayed as accused in the FIR;
2. Whether any accused is a proclaimed offender;
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;
4. Whether the accused persons are involved in any other FIR or not; and



5. *The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.”

Pursuant thereto, report from the learned Judicial Magistrate Ist Class, Panipat, vide letter dated 23.09.2024, duly forwarded by the learned District and Sessions Judge, Panipat, has been received, wherein it was reported that *‘nothing can be commented upon the compromise between the parties as respondent No. 2-complainant did not appear before the learned trial Court despite issuance of repeated notices to her vide orders dated 18.07.2024, 22.07.2024, 29.07.2024, 06.09.2024, 12.07.2024 and 20.09.2024 for recording her statement qua the compromise’.*

Learned counsel appearing for respondent No. 2-complainant on instructions from respondent No. 2-complainant as well as her father submits that they have **‘no objection’** in case, the present petition is allowed and the impugned FIR (Annexure P-1) qua the petitioner is quashed.

In view of the above, learned State counsel has also stated that he has **‘no objection’** in case the FIR is quashed qua the petitioner.

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

In view of the above, this Court finds that the matter has been settled between the petitioner and respondent No. 2. The petitioner and



respondent No. 2 have already been granted decree of divorce by way of mutual consent vide judgment and decree dated 31.05.2022 (Annexure P-3) and the petitioner had also paid the entire agreed amount of Rs.5,00,000/- to the respondent No.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 **Ruchi Agarwal’s case (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’s case (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. 0117 dated 07.07.2021 (Annexure P-1)

registered under Sections 323, 406, 498-A and 506 read with Section 34 IPC at Women Police Station Panipat, District Panipat and all the consequential proceedings arising therefrom, on the basis of compromise encapsulated in the terms of decree of divorce by way of mutual consent dated 31.05.2022 (Annexure P-3) passed by the learned Family Court, Panipat, are ordered to be quashed qua the petitioner.

16.10.2024	(NIDHI GUPTA)
<i>rishu</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No