

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-41176 of 2013

.....

Date of decision:21.12.2013

Kamaljeet Singh and another

...Petitioners

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Munish Puri, Advocate for the petitioners.

Ms. Harsimrat Rai, Deputy Advocate General, Punjab
for the respondent-State.

Mr. Dinesh Trehan, Advocate for the complainant-respondent
No.2.

.....

Inderjit Singh, J.

This petition has been filed by petitioners Kamaljeet Singh and Parshan Kaur alias Parsan Kaur under Section 482 Cr.P.C. for quashing of FIR No.124 dated 9.11.2011 (Annexure-P.1) registered for the offences under Sections 498-A, 406 and 506 IPC at Police Station Division No.2 Pathankot, District Pathankot and all other consequential proceedings arising therefrom, on the basis of compromise dated 27.11.2013 (Annexure-P.2).

On 4.12.2013, learned Chief Judicial Magistrate, Pathankot

was directed to send a report with regard to the genuineness/validity or otherwise of the compromise (Annexure-P.2) arrived at between the parties after recording the statements of all the concerned parties.

In compliance of the above, the learned Chief Judicial Magistrate, Pathankot has sent his report vide letter dated 17.12.2013, wherein statements of complainant Arshdeep Kaur and accused-petitioners Kamaljeet Singh and Parsan Kaur have been recorded. It has been submitted in the report that complainant Arshdeep Kaur has compromised the matter with accused-petitioners, namely, Kamaldeep Singh and Parsan Kaur with the intervention of respectables. The complainant has stated that she is making her statement voluntarily and with her free will and without any coercion and she has no objection if the proceedings of the above FIR are quashed

Learned Deputy Advocate General, Punjab, on instructions from the Investigating Officer, and learned counsel for the complainant-respondent No.2 admit the factum of compromise and have no objection if the impugned FIR and all other subsequent proceedings arising therefrom are quashed.

I have heard learned counsel for the parties.

The FIR has been registered on the complaint of Arshdeep Kaur (respondent No.2) for the offences under Sections 498-A, 406 and 506 IPC as matrimonial dispute and differences have arisen between the parties. Now, with the intervention of respectables, the parties have agreed to settle their matrimonial dispute and differences amicably

between themselves. The parties have decided to seek dissolution of their marriage and have filed a petition under Section 13-B of the Hindu Marriage Act seeking divorce by mutual consent. Since the parties have amicably settled their matrimonial dispute, the chances of ultimate conviction are bleak.

After giving my thoughtful consideration to the matter, it may be noticed that the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, has held that the inherent jurisdiction of this Court under Section 482 Cr.P.C. can be exercised to quash the proceedings in respect of criminal cases arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute even though they are not compoundable. The Hon'ble Supreme Court after having interpreted the relevant provisions, has held in para 57 of the judgment as follows:

“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 what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating

to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question (s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Keeping in view the factum of compromise and the law laid down by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another (supra), this petition is allowed and FIR No.124 dated 9.11.2011 (Annexure-P.1) registered for the offences under Sections 498-A, 406 and 506 IPC at Police Station Division No.2 Pathankot, District Pathankot and

[6]

all other consequential proceedings arising therefrom, on the basis of compromise dated 27.11.2013 (Annexure-P.2), are hereby quashed.

December 21, 2013.

(Inderjit Singh)
Judge

hsp