

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Misc. No.M-13829 of 2013

Date of Decision: 20.01.2015

Vishal Sondhi

....Petitioner

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Anuj Balian, Advocate
for the petitioners.

Mr. Parupkar Singh Ghuman, Addl. A.G., Punjab
for the respondent-State.

None for respondent No.2.

DAYA CHAUDHARY, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C for quashing of FIR No.31 dated 29.02.2012 registered under Sections 406/498-A IPC at Police Station City Rupnagar along with all consequential proceedings arising therefrom, on the basis of compromise.

Learned counsel for the petitioner submits that the dispute between the parties has been settled by way of compromise and a divorce petition under Section 13-B of the Hindu Marriage Act has also been allowed.

As per directions issued by this Court on 14.11.2013, the statements of the parties were recorded before the trial Court, wherein, the factum of compromise has been affirmed. After recording the statements of the parties, a report has also been sent by Chief Judicial Magistrate, Ropar, wherein, it has been mentioned that the decree of divorce has already been awarded by the Court of Additional District Judge, Panchkula

vide judgment dated 08.11.2013. A copy, thereof, has also been placed on record. In the statement of the complainant, it has been mentioned that on the basis of compromise, both the parties have parted from each other and divorce under Section 13-B of the Hindu Marriage Act has already been awarded. She has also stated that she does not have any objection in quashing of the FIR, in question.

Since the dispute between the parties has been settled by way of compromise and a divorce petition under Section 13-B of the Hindu Marriage Act has been allowed on mutual consent; the complainant is satisfied with the compromise and she has no objection in quashing of the FIR; learned counsel for the petitioner also submits that the complainant has remarried after divorce and moreover, no purpose would be served, in case, the proceedings are allowed to be continued, the ultimate result would be acquittal as the complainants are not going to support the case of the prosecution. The continuation of the proceedings would be an exercise in futility and will not only be the wastage of valuable time of the Court but it would also be not in the interest of both the parties. This Court has power to quash the proceedings on the basis of compromise. Powers under Section 482 Cr.P.C have been designed to achieve that the proceedings may not be permitted to degenerate into a weapon of harassment or prosecution as has been held by Hon'ble the Apex Court in case ***State of Karnataka vs L. Muniswami AIR 1977 SC 1489.***

It has been observed by Hon'ble the Apex Court that though justice has to be administered according to the laws made by the legislature yet the Court proceeding ought not to be permitted to degenerate into a weapon of harassment or prosecution. The relevant observations made therein are reproduced as under :-

“ In the exercise of this wholesome power, the

High Court is entitled to quash the proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or prosecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceedings in the interest of justice. The ends of justice are higher than the ends of mere law though justice has not to be administered according to the laws made by the legislature. The compelling necessity for making these observations is that without a proper realization of which seeks to save the inherent powers of the High Court to do so justice between the State and its subjects it would be impossible to appreciate in width the contours of that salient jurisdiction.”

A larger Bench of this Court in ***Kulwinder Singh vs State of Punjab 2007(3) RCR Criminal 1052*** has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties. The observations of this Court are reproduced as under :-

“ Criminal Procedure Code, Section 320(9) – Criminal Procedure Code, Section 482 – Compounding of offences which are non-compoundable under Section 320(9) Cr.P.C. - Offence non-compoundable, but parties entering into compromise-High Court has power under Section 482 Cr.P.C to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to

prevent the abuse of the process of any court or to otherwise secure the ends of justice – This power of quashing is not confined to matrimonial disputes alone.”

In the present case, the dispute between the parties is matrimonial and the same is not against the Society. In case of matrimonial disputes, because of strained relations, multiple litigation are there between the parties. Sometimes not only the strained relations are there between husband and wife but other family members and also the distant relations are implicated. It is also seen in number of matrimonial cases that the tendency of false implication is also there because of the strained relations. Even after acquittal by the Courts, the legal proceedings leave a long lasting impressions on the minds of the parties to dispute which not only affect their future prospects but the bitterness becomes a part of their nature towards each other.

Hon'ble the Apex Court has observed in ***Preeti Gupta and another vs State of Jharkhand and another 2010(7) SCC 667*** as under :-

“30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned

members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious re-look of the entire provision is

warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.”

In the present case, the compromise has been effected between the parties with their free will and without any pressure. The continuation of proceedings in future would be futile as no purpose is going to be achieved in any manner.

Accordingly, the present petition is allowed and FIR No.31 dated 29.02.2012 registered under Sections 406/498-A IPC at Police Station City Rupnagar along with all consequential proceedings arising therefrom, qua petitioner Vishal Sondhi are hereby quashed.

20.01.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE