

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
254

CRM-M No.1159 of 2015

Date of Decision:23.02.2015

Amarjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

**Present: Ms.Amandip Kaur, Advocate,
for the petitioner.**

**Mr.Raj Preet Singh Sidhu, Assistant Advocate General,
Punjab, for respondent No.1-State.**

**Mr.J.B.S.Gill, Advocate,
for respondent No.2.**

MEHINDER SINGH SULLAR, J.(oral)

Tersely, the facts & material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record are that, initially in the wake of complaint of complainant-Narinder Kaur, daughter of Seetal Ram(respondent No.2) (for brevity “the complainant”), a criminal case was registered against her husband petitioner-accused Amarjit Singh son of Kashmir Singh, vide FIR No.71 dated 17.07.2014(Annexure P-1), on accusation of having committed the offences punishable under Sections 406 and 498-A IPC, by the police of Police Station Chabbewal, District Hoshiarpur.

2. After completion of the investigation, the police submitted the final police report(challan). The petitioner-accused was accordingly

charge-sheeted for the commission of offences, in question, and the case was slated for evidence of the prosecution by the trial Court.

3. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by way of compromise/affidavit dated 03.01.2015(Annexure P-2).

4. Having compromised the matter, the petitioner-accused has preferred the present petition, to quash the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., *inter alia*, pleading that, during the pendency of the case, they have amicably settled their matrimonial disputes before the Mediation & Conciliation Centre, Hoshiarpur. Learned counsel are *ad idem* that the parties have already filed a joint-petition for dissolution of their marriage by mutual consent under Section 13-B of The Hindu Marriage Act(hereinafter to be referred as “the Act”), in pursuance of the compromise(Annexure P-2), in which, their joint statements were recorded by the matrimonial court. They have redressed their grievances. They want to live in peace and harmony in future in the society. The complainant does not want to further pursue the matter. She has no objection, if the indicated criminal case registered against the accused is quashed, on the basis of compromise/affidavit. On the strength of aforesaid grounds, the petitioner-accused sought to quash the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner described here-in-above.

5. During the course of preliminary hearing, the trial Court was

directed to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise/affidavit(Annexure P-2), by means of order dated January 13, 2015 by this Court.

6. In compliance thereof, having recorded the statements of all the concerned parties, the trial Court has concluded vide its report dated 18.02.2015 that they have amicably settled their matrimonial disputes. The compromise has been effected voluntarily and the same is genuine. The complainant has no objection, if the criminal case registered against the accused, is quashed.

7. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by way of compromise/affidavit(Annexure P-2). The factum of compromise is also reiterated in the report of the trial Court.

8. What cannot possibly be disputed here is that, the law with regard to the settlement of disputes by virtue of amicable settlement between the parties is no more *res integra* and is now well-settled.

9. An identical question came to be decided by the Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another**, 2012(4) RCR(Criminal) 543. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) as under:-

“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."

10. Sequelly, the same view was again(recently) reiterated by Hon'ble the Apex Court in case Narinder Singh and others Versus State of Punjab and another, 2014(2) R.C.R.(Criminal) 482.

11. Above being the legal position and the material on record, now the short & significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioner deserves to be quashed in view of the compromise or not?

12. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned

counsel are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

13. As is evident from the record that, in the instant case, the parties have amicably settled their matrimonial disputes before the Mediation & Conciliation Centre, Hoshiarpur. Learned counsel are *ad idem* that the parties have already filed a joint-petition for dissolution of their marriage by mutual consent under Section 13-B of the Act, in pursuance of the compromise(Annexure P-2), in which, their joint statements were recorded by the matrimonial court. They have redressed their grievances. They want to live in peace and harmony in future in the society. The settlement is stated to be in the welfare, benefit and larger interest of the parties. The complainant does not want to further pursue the matter. She has no objection, if the present criminal case registered against the accused is quashed, on the basis of compromise/affidavit. The factum and genuineness of the compromise between the parties is also reiterated by the trial Court in its indicated report.

14. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the ratio of the law laid down and the bench-mark set out by Hon'ble the Supreme Court in Gian Singh and Narinder Singh & others' cases(supra), “mutatis mutandis” is fully applicable to the facts of the present case and is the complete answer to the problem in hand. Sequelly, the impugned FIR

(Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

15. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.71 dated 17.07.2014 (Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioner-accused is accordingly acquitted of the charges framed against him, in the indicated criminal case on the basis of compromise/affidavit, subject to all just exceptions.

Needless to mention, in case, the petitioner fails to comply with the terms & conditions of the compromise/affidavit(Annexure P-2), then the prosecution/complainant would be at liberty, to move a petition for revival of the criminal prosecution.

February 23, 2015
seema

(MEHINDER SINGH SULLAR)
JUDGE