

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-27521-2013
Date of decision:28.04.2015**

Rajesh Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.R.S.Tacoria, Advocate for the petitioners.

Mr.Ashish Yadav, Addl. A.G., Haryana.

Mr.Madan Pal, Advocate for respondent No.2.

RAMESHWAR SINGH MALIK, J. (Oral)

The petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') invoking its inherent jurisdiction for quashing of FIR No.112 dated 4.6.2013 registered under Sections 406, 498-A, 323 and 506 of the Indian Penal Code ('IPC' for short), at Police Station Civil Lines, Kaithal and the consequential proceedings arising therefrom.

Notice of motion was issued.

During the pendency of the present petition, parties have arrived at an amicable settlement which was recorded by this Court in its order dated 5.2.2015 and the same reads as under:-

“A consensus has been reached between the parties that petitioner shall pay Rs.22 lacs towards the full and final settlement to respondent No.2. To show his bona fide, he

undertakes to pay half of the amount i.e. Rs.11 lacs within 45 days from today.

In view of the settlement reached between the parties, further proceedings before the learned trial Court shall remain stayed.

Post again on 20.03.2015.

Thereafter on 20.3.2015, following order was passed by this

Court:-

“In compliance of the order dated 5.2.2015 passed by this court, an amount of 11.00 lacs by way of Demand Draft No.732306 dated 20.3.2015 has been handed over by learned counsel for the petitioners to learned counsel for respondent no.2, in the court today.

Learned counsel for the parties are ad-idem that the matter under the Hindu Marriage Act is pending consideration before the learned Matrimonial Court at Kaithal for 24.3.2015. Learned counsel for the petitioners submits that let the complainant-wife make an appropriate statement before the Matrimonial Court on the date already fixed i.e. 24.3.2015. Thereafter, the remaining amount of 11.00 lacs will be paid towards full and final settlement in view of the compromise already arrived at between the parties. Learned counsel for the petitioners further fairly states that the petitioners shall bring the remaining amount of 11.00 lacs in the form of bank draft or pay order in favour of respondent no.2 on the next date of hearing.

List on 21.4.2015.

A photostat copy of this order be placed on all the connected files.

Complainant-respondent No.2 namely Anju Rani and her cousin namely Anil Choudhary sought time for withdrawing the cases filed by them before the learned courts below pursuant to the compromise arrived at between the parties and they were granted time by this Court by passing the following order:-

“Learned counsel for respondent No.2, on instructions from respondent No.2-Anju Rani, who is present in the Court, submits that respondent No.2 as well as her cousin namely Anil Choudhary, who has filed another complaint, are ready to withdraw their respective complaints which are pending before the learned trial Court. They seek only three days' time to do the needful and to bring the copy of withdrawl order before this Court on the next date of hearing.

Learned counsel for the petitioners submits that in compliance of the orders dated 5.2.2015 and 20.3.2015 passed by this Court, he has brought the remaining amount of Rs.11 lacs by way of bank draft in the name of complainant-Anju Rani. He further submits that the remaining amount of Rs.11 lacs by way of bank draft shall be handed over to Ms. Anju Rani on the next date of hearing.

List on 28.4.2015.

A photocopy of this order be placed on the files of connected cases.”

Learned counsel for the parties are ad idem that in compliance of the above-said orders passed by this Court, respondent No.2 as well as her cousin namely Anil Choudhary have withdrawn their respective complaints which were pending before the learned trial Court. Husband of the complainant namely Navneet Kumar and as well as complainant namely Anju Bala are present in the Court.

On the asking of Court, both of them have stated that they have amicably settled the matter with the intervention of the respectables. Respondent No.2 has further stated that in view of the fact that she has already received the entire amount which was mutually settled between the parties, including Rs.11 lacs by way of bank draft No. 763218 dated 20.04.2015 in her name today in the Court, she has got no objection in case the impugned FIR and the proceedings therefrom are ordered to be quashed.

She has also stated that the total amount of Rs.22 lacs received by her is towards full and final amount including the maintenance for the daughter. Since the divorce petition is pending between the husband and wife, complainant-wife Anju Rani has also stated that she will make the statement in favour of the husband on the date already fixed before the learned matrimonial court, where parties are seeking divorce by way of mutual consent.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice. It is so said because the parties have arrived at an out of Court settlement. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

The above-said view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court of India in **Shiji @ Pappu and others versus Radhika and another, 2012 (1) RCR (criminal) 9** and also from the larger Bench judgment of this Court in **Kulwinder Singh and others versus State of Punjab and another reported as 2007 (3) RCR (criminal) 1052**. The observations made by the Hon'ble Supreme Court in para 13 of the judgment in Shiji's case (supra), which can be gainfully followed in the present case, read as under:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power

can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be

recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.”

Reverting back to the facts of the present case, this Court has satisfied itself that the compromise arrived at between the parties is a genuine one. In view of the genuine compromise arrived at between the parties this Court feels no hesitation to conclude that the continuation of the prosecution any further would be nothing but sheer abuse of the process of law. It would result in wastage of valuable time of the Court because no chance of conviction is left.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the

ends of justice, FIR No.112 dated 4.6.2013 registered under Sections 406, 498-A, 323 and 506 at Police Station Civil Lines, Kaithal and the consequential proceedings arising therefrom are ordered to be quashed only qua the petitioners.

Resultantly, with the above-said observations made, the instant petition stands allowed.

28.04.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE