

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27032-2014

Date of decision: 23.09.2015

Narender and ors.

... Petitioners

Vs.

State of Haryana and anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Shiv Kumar, Advocate
for the petitioners.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

Mr. Amit Chaudhary, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK J.(ORAL):

Petitioners, by way of instant petition under Section 482 Cr.P.C., seek quashing of impugned FIR No.88 dated 26.05.2014 under Sections 498-A, 406, 506 of the Indian Penal Code ('IPC' for short), registered at Police Station Hassanpur, District Palwal and all the consequential proceedings arising therefrom.

Notice of motion was issued and presentation of challan was stayed. Thereafter, vide order dated 30.06.2015, matter was referred to Mediation and Conciliation Centre to explore the possibility of an amicable settlement between the parties, as the matter was a matrimonial one.

Learned counsel for the parties are ad idem that the matter has been amicably settled between the parties before the Mediation and Conciliation Centre. A settlement agreement dated 12.08.2015 was arrived at

between the parties, which is available on record. Learned counsel for the petitioners submits that in compliance of the terms of compromise arrived at between the parties, an amount of Rs.70,000/-, in cash, has been paid to learned counsel for the complainant-respondent No.2 namely Smt. Kavita @ Radha wife of Narender (petitioner No.1), which has been accepted by him in the Court. Learned counsel for the parties are further agreed that the remaining amount of Rs.1,30,000/- shall be paid by the petitioners to the complainant-respondent/wife, in terms of the settlement arrived at between the parties.

Learned counsel for the complainant-respondent No.2 submits that once the parties have arrived at an amicable settlement, he has got instructions to say that complainant has no objection in case the impugned FIR and consequential criminal proceedings arising therefrom, are quashed.

Learned counsel for the petitioners as well as learned counsel for the State are ad idem that none of the petitioners is proclaimed offender.

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 by way of a compromise. 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.”

The law laid down by the Hon'ble Supreme Court in **Shiji's** case (supra) has been further reiterated by the Hon'ble Supreme Court in its later judgments including in the cases of **Jayrajsinh Digvijaysinh Rana v. State**

of Gujarat and another, 2012 (12) SCC 401, Gold Quest International Private Limited v. State of Tamil Nadu & Ors., 2014 (4) RCR (Crl) 206, Manohar Singh v. State of Madhya Pradesh and another, 2014 AIR (SC) 3649 and Narinder Singh and others v. State of Punjab and another, 2014 (6) SCC 466.

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. 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.88 dated 26.05.2014 under Sections 498-A, 406, 506 IPC, registered at Police Station Hassanpur, District Palwal and the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioners only.

However, it is made clear that parties to the settlement shall remain bound by the terms and conditions of compromise arrived at between them, vide settlement agreement dated 12.08.2015.

Resultantly, with the abovesaid observations made, instant petition stands allowed.

[RAMESHWAR SINGH MALIK]
JUDGE

23.09.2015
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