

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-3244-2015
Date of decision:23.7.2015**

Sunder and another

...Petitioners

Versus

State of Haryana and others

...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.S.S.Sahu, Advocate for the petitioners.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

Mr.D.S.Bishnoi, Advocate for respondent No.3.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seek quashing of FIR No.488 dated 13.12.2010 registered under Sections 323, 406, 498-A and 506 read with Section 34 of the Indian Penal Code ('IPC' for short), at Police Station Ratia and also seek setting aside the judgment of conviction and order of sentence of even date, i.e. 20.2.2014 passed by the learned Sub-Divisional Judicial Magistrate, Ratia ('SDJM' for short), on the basis of compromise dated 15.12.2014 (Annexure P-3).

Notice of motion was issued and first appellate court was directed not to pass the final judgment, on the appeal against the above-said judgment of conviction dated 20.2.2014, filed at the instance of the petitioners.

Learned counsel for the petitioners as well as learned counsel

for complainant-respondent No.3 are ad idem that after conviction by the learned trial Court and during the pendency of appeal before the learned first appellate court, parties have arrived at an amicable settlement by way of compromise (Annexure P-3). They further submit that pursuant to the compromise arrived at between the parties, a petition under Section 13-B of the Hindu Marriage Act was filed by petitioner No.1 and respondent No.3-complainant, seeking a decree of divorce by way of mutual consent, which had been granted by the learned court of competent jurisdiction, vide judgment and decree dated 9.4.2015 (Annexure P-7).

Parties also submitted their respective statements before the learned matrimonial court at Annexures P-5 and P-6. In addition to the above, learned counsel for the complainant submits that he has got instructions to say that respondent No.3 would have no objection in case the present petition is allowed. They jointly pray for allowing the present petition, by quashing the FIR as well as by setting aside the judgment of conviction.

Learned counsel for the State also fairly states that since the parties have arrived at an amicable settlement, let the instant petition be disposed of, by passing an appropriate order.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in view of the undisputed document available on record in the form of compromise (Annexure P-3), which is further supported by Annexures P-5 to P-7, the present petition deserves to be allowed. It is so said, because the parties have decided to bury the hatchet by way of an amicable settlement. In such

a situation, petitioners are entitled for acquittal of the charges framed against them, it being a matrimonial dispute.

The above-said view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **Khaja Nayeemuddein Vs. State of Andhra Pradesh, 2000 (4) Crimes 117, Deva Ram Vs. State of Rajasthan and another, 2014 (13) SCC 275, Narinder Singh and others Vs. State of Punjab and another, 2014 (6) SCC 455** and judgments of this Court in **Jasbir Singh Vs. State of Punjab, 2000 (3) RCR (Crl.) 220, Roshan Vs. Smt. Jai Janti, 2000 (4) RCR (Crl.) 216, Darshan Singh and others Vs. State of Punjab and another, 2001 (2) AICLR 375, Kulwinder Singh and others Vs. State of Punjab and another, 2007 (3) RCR (Crl.) 1052, Ram Nath and others Vs. State of Haryana, 2009 (5) RCR (Crl.) 553, Chet Singh Vs. State of Punjab, 2011 (6) RCR (Crl.) 1254, and Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (Crl.) 102.**

In **Deva Ram's** case (supra), the Hon'ble Supreme Court in paras 4, 6 and 7 of the judgment observed as under: -

“An application has been filed in this Court by the appellant praying that in view of the settlement, offence may be permitted to be compounded. It is stated that the original complainant and the appellant are close relatives. It is stated that the original complainant expired on 30/05/1994. Thereafter, the son of the complainant is not keen on prosecuting the proceedings. The appellant is a senior citizen who suffers from various ailments. It is further stated that due to intervention of the elders of the village, dispute between the parties is

resolved. The appellant has agreed to pay settlement amount to Arjun Ram. It is further stated in the application that the appellant has paid the fine amount. An affidavit has also been filed by Jagdish Prasad, Power of Attorney holder of the appellant confirming that the matter is settled.

We must note that copy of Deed of Compromise dated 25/2/2014 is also filed in the court. Learned counsel for the parties have confirmed that the matter is settled.

We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence. Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge.”

Similarly, the Hon'ble Supreme Court in paras 3 and 4 of its judgment in **Khaja Nayeemuddein's case** (supra), held as under: -

“During the pendency of the Special Leave Petition, appellant had come to terms with the victim of the accident (PW.2) and thereupon a petition has been filed for permission of the Court to compound the offence. We issued notice to PW.2 Mohd. Ezaz. Today, Mr. Abhijit Sen Gupta entered appearance for

him and submitted that as a matter of fact the appellant and PS.2 have come to terms regarding the offence and so permission is sought for compounding it.

Section 336 of the Indian Penal Code is a compoundable offence with the permission of the Court as can be seen from the second table given to Section 320 of the Code of Criminal Procedure. Considering the fact that the appellant is an employee attached to Andhra Pradesh Road Transport Corporation and the consequences of the conviction will be detrimental to his career, we persuade ourselves to accord permission for compounding the offence. In the result, we set aside the conviction and sentence passed on him and acquit him under Section 320 (8) of the Code of Criminal Procedure.”

Reverting back to the facts of the present case and respectfully following the law laid down by the Hon’ble Supreme Court as well as this Court, in the cases referred to hereinabove, petitioners have been found entitled for acquittal on the basis of compromise (Annexure P-3), it being a matrimonial dispute.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present petition deserves to be allowed.

Consequently, the impugned FIR No.488 dated 13.12.2010 registered under Sections 323, 406, 498-A and 506 read with Section 34 IPC, at Police Station Ratia, is quashed however, only qua the petitioners.

Judgment of conviction and order of sentence of even date, i.e. 20.2.2014 passed by the learned SDJM, Ratia, are hereby set aside. Petitioners are acquitted of the charges framed against them. Their bail bonds/surety bonds shall stand discharged.

With the above-said observations made and directions issued, the instant petition stands allowed, however, with no order as to costs.

23.7.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE