

CRM-M-36853-2012

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

CRM-M-36853-2012
Date of decision: 19.05.2015

Rohit Awasthi

....Petitioner(s)

Versus

State of Punjab and another

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Mohinder Kumar, Advocate,
for the petitioner.

Mr. K.S.Sidhu, DAG, Punjab.

Mr. Vishal Aggarwal, Advocate,
for respondent No.2.

PARAMJEET SINGH, J. (ORAL)

This petition has been moved by the petitioner under Section 482 of the Code of Criminal Procedure, seeking quashing of case FIR No.52 dated 22.04.2006, under Sections 406 and 498-A of the Indian Penal Code, registered at Police Station Mukerian, District Hoshiarpur, on the basis of compromise (Annexure P-2), alongwith all the subsequent proceedings arising therefrom.

Vide order dated 10.04.2013, parties were directed to appear before trial Court on 16.04.2013 to get their statements recorded with regard to compromise and the trial Court was directed to send its report.

CRM-M-36853-2012

In compliance of order dated 10.04.2013, learned trial Court has submitted its report vide letter dated 26.04.2013 which indicates that parties appeared before it and got recorded their respective statements with regard to validity of compromise. As per the report, compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Learned counsel for the parties state that now, no dispute survives between the parties.

On 12.05.2015, the petitioner undertook that in order to comply with term No.3 of compromise, he would deposit ₹4,50,000/- in three instalments in the name of Shivam for his educational and other expenses. He also undertook that first instalment would be paid within a week and remaining two instalments would be paid by way of demand draft in the name of Shivam on 01.04.2016 and 01.04.2017, respectively.

In compliance of order dated 12.05.2015, the petitioner, present in Court today, has handed over demand draft No.823622 dated 18.05.2015, amounting to ₹1,50,000/-, prepared in favour of minor-Shivam, to respondent No.2, present in Court today, towards educational expenses of minor. Photocopy of the demand draft is taken on record.

Respondent No.2 has also filed her affidavit dated 19.05.2015 to the effect that she has no objection, if the present FIR be quashed. A relevant extract of the affidavit of respondent No.2 reads as under:

“2. That it is submitted that though the FIR was lodged in the year 2006 the compromise took place in the year 2012 after gap of six years. As per the

CRM-M-36853-2012

compromise it was agreed that the petitioner shall pay a sum of Rs.23,00,000/- for the maintenance of the answering respondent i.e. the wife and also the property owned by him for the maintenance and expenses of the child born out of the wedlock.

3. *That as per the compromise the petitioner has to transfer at least one property in the name of the child so that either the answering respondent and her son should live in the said property/house or are able to get some fixed source of income from which the expenses of the child could be borne. Since the petitioner has drawn a Will in favour of the child and the child shall only become owner of property after the death of the petitioner, it has been agreed that the petitioner shall pay a sum of Rs.4.5 lacs towards the education expenses of the child. The same shall be payable over a period of two years.*

4. *That in the eventuality the answering respondent has no objection if the FIR is quashed in terms of the compromise and the amount being paid by the petitioner in the above said terms.”*

In the present case, matter has been settled between the parties; parties have taken divorce by mutual consent and now no dispute survives between the parties. In ***Shlok Bhardwaj vs. Runika Bhardwaj and others*** 2015 (1) R.C.R.(Criminal) 249, the Hon'ble Supreme Court has held as under:

“12. It is clear from perusal of the impugned order of the High Court that the development of settlement between the parties during pendency of the revision

CRM-M-36853-2012

petition has not even been adverted to. Once the matter was settled between the parties and the said settlement was given effect to in the form of divorce by mutual consent, no further dispute survived between the parties, though it was not so expressly recorded in the order of this Court. No liberty was reserved by the wife to continue further proceedings against the husband. Thus, the wife was, after settling the matter, estopped from continuing the proceedings. In any case, it is well settled that the scope of revisional jurisdiction of the High Court does not extend to reappreciation of evidence. In exercise of revisional jurisdiction, the High Court can interfere with the acquittal only if there is perversity in the order of acquittal. In the present case, the order of acquittal could not be held to be perverse. The High Court observed that the demand of articles, papers of house property of Jabalpur and Noida and the contents of Exhibits Ka2 and Ka3 amounted to harassment, cruelty and mental torture. This observation amounted to substitution of its view by the High Court for the view taken by the Magistrate after due consideration of all the allegations. The Magistrate inter alia found the version of the respondent-wife to be not believable and also found that the allegations were not substantiated. It was observed that the wife herself admitted that the documents Exhibit Ka2 and Ka3 were merely guidelines for good conduct and behavior expected of her and did not amount to cruelty. It was also admitted that there was no demand of dowry at the time of marriage. The Investigating Officer had never visited Jabalpur and the demand of house at Jabalpur was not substantiated. It

CRM-M-36853-2012

was further observed that criminal case filed by the wife was a counter blast to the divorce case filed by the husband. Version before the Court was improvement over the original version in the First Information Report. She had given contradictory statement about the place where her husband demanded the house. Thus, the Magistrate having dealt with the matter threadbare, the High Court, in exercise of revisional jurisdiction was not justified in interfering with the order of acquittal particularly when the parties had reached the settlement before this Court on the basis of which divorce by mutual consent was granted by the Family Court, Jabalpur which fact was placed on record of the High Court.

13. In view of the above, we allow this appeal, set aside the impugned order passed by the High Court and restore the order of the Magistrate.”

Consequently, in view of compromise (Annexure P-2) and affidavit dated 19.05.2015 of respondent No.2 and keeping in view the law laid down by the Hon'ble Apex Court in the case of ***Shlok Bhardwaj (supra), Madan Mohan Abbot vs. State of Punjab, 2008(2) RCR (Criminal) 429, Gian Singh vs. State of Punjab and another, 2012(4) R.C.R.(Criminal) 543, Narinder Singh and others vs. State of Punjab and another, 2014(2) R.C.R.(Criminal) 482*** and Full Bench judgment of this Court in the case of ***Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Crl.) 1052***, no useful purpose would be served in prolonging the litigation, especially when this case does not fall within the category of exceptional cases where this Court should not

CRM-M-36853-2012

exercise its inherent jurisdictional power to quash the criminal proceedings, as held in **Gian Singh (supra)** and **Narinder Singh and others (supra)**. In the facts and circumstances of this case, it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of the criminal proceedings would amount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and to secure the ends of justice, therefore, it is appropriate that criminal case is put to an end.

The present petition is allowed. FIR No.52 dated 22.04.2006, under Sections 406 and 498-A of the Indian Penal Code, registered at Police Station Mukerian, District Hoshiarpur, is hereby quashed, on the basis of compromise (Annexure P-2) and affidavit dated 19.05.2015 of respondent No.2, and all the criminal proceedings arising from the said FIR also stand quashed.

It is, however, made clear that if the proceedings already stand concluded and conviction recorded in the present case, this order shall be treated non est and, thus, will have no bearing on the conviction and sentence order.

It is further made clear that respondent No.2 will be at liberty to move appropriate application, if there is non-compliance of order dated 12.05.2015 by the petitioner.

19.05.2015
parveen kumar

(PARAMJEET SINGH)
JUDGE