

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

Crl. Misc. No. M-34846 of 2014

Date of decision : - 12.02.2015

Pawan Kumar and others

...Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR

Present: Mr. Sandeep Kotla, Advocate
for the petitioners.

Mr. Raj Kumar Yadav, D.A.G. Haryana
for the State.

Nemo for respondent No.2.

Mehinder Singh Sullar, J. (Oral)

Tersely, the facts and 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 Shallu daughter of Bheem Saini-respondent No.2 (for brevity “the complainant”), a criminal case was registered against petitioners-accused Pawan Kumar and his parents, vide FIR No.118 dated 12.05.2012 (Annexure P-1), on accusation of having committed the offences punishable under Sections 406, 498-A, 323, 342, 506, 120-B, 109 and 34 IPC, by the police of Police Station Pehowa, District Kurukshetra.

2. After completion of the investigation of the case, the police submitted the final police report (challan). Consequently, the petitioners-accused were charge-sheeted for the commission of the indicated offences 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 means of statements of complainant dated 23.07.2014 (Annexure P-2) and her husband Pawan Kumar dated 23.07.2014 (Annexure P-3).

4. Having compromised the matter, the petitioners-accused have 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.PC, *inter-alia*, pleading that during the pendency of divorce petition, the parties have amicably settled their matrimonial disputes. They made their statements (Annexures, P-2 & P-3) in this respect. They have redressed their grievances. They want to live in peace and harmony in future in the society. In pursuance of the statements, 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, 1955 (hereinafter to be referred 'the Act'). Learned counsel for the parties are *ad idem* that the marriage of complainant and petitioner No.1 has already been dissolved, by decree of divorce dated 03.09.2014, by the matrimonial Court. The complainant has no objection, if the criminal case registered against the petitioners-accused, by means of impugned FIR (Annexure P-1) is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR and

all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

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 amicable settlement, by way of order dated 17.12.2014, by this Court.

6. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, has reported vide its report dated 02.02.2015, that have amicably settled their matrimonial disputes. The compromise arrived at between them is voluntarily, valid, genuine, without any pressure or coercion.

7. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by virtue of statements (Annexures P-2 & P-3). The factum of compromise is reiterated in the indicated report of the trial Court.

8. What cannot possibly be disputed here is that, the law with regard to the settlement of such matrimonial disputes, by means 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 pointed 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.”

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

10. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal

prosecution against the petitioners deserves to be quashed in view of the compromise or not?

11. 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 instant petition deserves to be accepted in this context.

12. As is evident from the record that, during the pendency of divorce petition, the parties have amicably settled their matrimonial disputes. They made their statements (Annexures, P-2 & P-3) in this respect. They have redressed their grievances. They want to live in peace and harmony in future in the society. The compromise is stated to be in the benefit, welfare and larger interest of the parties. In pursuance of the statements, the parties have already filed a joint petition for dissolution of their marriage, by mutual consent under Section 13-B of the Act. Learned counsel for the parties are *ad idem* that the marriage of complainant and petitioner No.1 has already been dissolved, by decree of divorce dated 03.09.2014, by the matrimonial Court. The complainant has no objection, if the criminal case registered against the petitioners-accused, by means of impugned FIR (Annexure P-1) is quashed. The factum of compromise is reiterated in the indicated report of the trial Court.

13. Therefore, 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. Hence, to me, the ratio of the law

laid down and the bench-mark set out by the Hon'ble Supreme Court in **Gian Singh's and Narinder Singh's and others cases (supra)**, “mutatis mutandis” is attracted to the facts of the present case and is the complete answer to the problem in hand. Likewise, the impugned FIR (Annexure P-1) and all other consequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

14. In the light of the aforesaid reasons, the instant petition is accepted. The impugned FIR No.118 dated 12.05.2012 (Annexure P-1) and all other subsequent proceedings arising thereto, are hereby quashed. Consequently, the petitioners-accused are accordingly acquitted of the charges framed against them, in the indicated criminal case, on the basis of compromise, subject to all just exceptions.

15. Needless to mention that, in case, the petitioners fail to comply with the terms and conditions of the settlement, then, the prosecution/complainant would be at liberty to move a petition to revive the instant criminal prosecution.

February 12, 2015
naresh.k

(Mehinder Singh Sullar)
Judge