

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-15596 of 2015

DATE OF DECISION: 22.01.2016

Raj Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. Varun Sharma, Advocate
for the petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

None for respondent No.2.

DAYA CHAUDHARY, J.

FIR No. 102 dated 8.12.2006 was registered under Sections 406 and 498-A IPC at Police Station D Division, Amritsar against petitioners, namely, Raj Kumar and Pushpa @ Sanjogta on the basis of complaint made by respondent No.2-Shallu. After lodging of the aforesaid FIR, the accused-petitioners faced trial and were convicted by the Judicial Magistrate Ist Class, Amritsar vide its judgment dated 21.9.2013 under Section 498-A IPC and sentenced to undergo RI for a period of two years with fine of ₹ 1000/- with default clause. However, they were acquitted of the charge under Section 406 IPC.

Aggrieved by the aforesaid judgment of conviction and order of sentence, the accused-petitioners preferred an appeal before the Court of Sessions Judge, Amritsar. During the pendency of the proceedings, respondent No.2 filed a petition under Section 125 Cr.P.C. against petitioner No.1 and the matter was referred to Mediation and Conciliation Centre, Amritsar, where, a settlement was arrived at between the parties, which was reduced into writing. Said settlement was signed by petitioner No.1 as well as complainant-respondent No.2. It was settled that petitioner No.1 was to pay ₹ 2,30,000/- to respondent No.2 and that respondent No.2 was to withdraw the petition filed under Section 125 Cr.P.C. A statement was to be made to the effect that she has no objection even in acquittal of the accused by the appellate Court. As per settlement arrived at between the parties, petitioner No.1 made payment of an amount of ₹ 2,30,000/- to respondent No.2 and thereafter her statement was recorded before JMJC, Amritsar. On the basis of statement suffered by respondent No.2, petition filed under Section 125 Cr.P.C. was withdrawn vide order dated 13.1.2015.

The present petition has been filed for setting aside the judgment of conviction and order of sentence passed by the trial Court and other proceedings arising out of FIR No. 102 dated 8.12.2006 registered under Sections 406 and 498-A IPC at Police Station D Division, Amritsar.

Vide order dated 21.7.2015 passed by this Court, the parties were directed to appear before the trial Court for recording of their statements with regard to compromise.

In response to the said directions, the parties appeared before JMJC, Amritsar and their statements were recorded, wherein, factum of compromise has been affirmed. Complainant-respondent No.2 has stated in her statement that she has no objection in setting aside the judgment of conviction and order of sentence as well as in acquittal of the accused-

petitioners.

By exercising the powers provided under Section 482 Cr.P.C.; considering the interest of both the parties and also the nature of litigation between the parties, it would not be in the interest of justice to allow the proceedings to continue when a compromise has been arrived at between them. It has also been held by the Larger Bench of our own High Court in ***Kulwinder Singh and others vs State of Punjab and others, reported as 2007(3) RCR (Criminal) 1052***, that the High Court has wide power to quash the proceedings even in non-compoundable offences, notwithstanding the bar under Section 320 of the Criminal Procedure Code in order to prevent abuse of the process of any Court or to secure the ends of justice. The observations made by the larger Bench in paras 28 and 29 are reproduced as under:-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice.” Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

Accordingly, the present petition is allowed and FIR No. 102 dated 8.12.2006 registered under Sections 406 and 498-A IPC at Police Station D Division, Amritsar and other proceedings arising therefrom including the judgment of conviction and order of sentence passed by the trial Court is quashed and the petitioners, namely, Raj Kumar and Pushpa @ Sanjogta are acquitted of the charges framed against them.

January 22, 2016
pooja

(DAYA CHAUDHARY)
JUDGE