

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-37627 of 2015

DATE OF DECISION: 15.02.2016

Jagir Kaur and others

.....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. Jasraj Singh, Advocate
for the petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Anshul Mangla, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.127 dated 26.10.2013 registered under Sections 323,324,498-A,506,509,120-B IPC at Police Station Mehtiana, District Hoshiarpur and other consequential proceedings arising therefrom on the basis of compromise arrived at between the parties.

Learned counsel for the petitioner contends that it is a case of matrimonial dispute and the aforesaid FIR was registered on the basis of complaint made by complainant-respondent No.2, namely, Harpreet Kaur on the ground that her husband, namely, Sukhdip Singh (petitioner No.3)

had gone abroad after marriage and was not sending money to her. Learned counsel further contends that now the dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of the FIR and other proceedings.

While issuing notice of motion on 3.11.2015, the parties were directed to appear before the trial Court for recording of their statements with regard to compromise.

In response to the said direction issued by this Court, the parties appeared before the Judicial Magistrate Ist Class, Hoshiarpur and their statements were recorded. After recording of their statements, a report along with the statements of the parties has been sent, which is on record wherein the factum of compromise has been affirmed. It has also been mentioned in the report that the compromise arrived at between the parties is genuine and without any pressure from either side. Complainant-respondent No.2 has specifically stated in her statement that she has no objection in quashing of the FIR and other proceedings. She has also stated that earlier also she and her husband were residing together and on his return to India again they will reside together.

Heard learned counsel for the parties and have perused the record.

Petitioner No.3-Sukhdip Singh has filed the present petition through special power of attorney, namely, Dilbag Singh. He has stated that petitioner No.3-Sukhdip Singh is residing abroad at present and on his return to India he will reside with his wife Harpreet Kaur (complainant-respondent No.2).

The dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of the FIR and other proceedings. No purpose would be served in case proceedings

are continued in future as it would amount to wastage of precious time of the Court. It would also not be in the interest of the parties as the complainant is not going to support the case of the prosecution. The purpose of the compromise is to maintain peace and harmony in the relations. Moreover, this Court has wide power to quash the criminal 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 law or to secure the ends of justice.

Hon'ble the Apex Court in the case of **Madan Mohan Abbot Vs. State of Punjab** 2008 (2) RCR (Criminal) 429 has held as under:-

“We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

Similarly five judge Bench of this Court in the case of **Kulwinder Singh Vs. State of Punjab** 2007 (3) RCR (Criminal) 1052 has held as under:-

“The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered

power inherently bested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320 (9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

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 the impugned criminal proceedings arising out of FIR No.127 dated 26.10.2013 registered under Sections 323,324,498-A,506,509,120-B IPC at Police Station Mehtiana, District Hoshiarpur as well as all subsequent proceedings arising therefrom qua petitioners, namely, Jagir Kaur, Avtar Singh and Sukhdip Singh are hereby quashed.

February 15, 2016
pooja

(DAYA CHAUDHARY)
JUDGE