

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

Date of decision:18/05/2016.

Simranjit Kaur

.....Petitioner

VS

State of Punjab and another

.....Respondent

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.RS Bajaj,Advocate for the petitioner.

Mr.Mikhil Kad,AAG Punjab assisted by
ASI Amarjit Kumar

Mr.Sukhjinder Singh Behl,Advocate for respondent no.2.

Jaswant Singh,J(Oral)

Prayer in this petition under Section 482 Cr.PC moved by Simranjit Kaur-petitioner wife is for quashing of FIR No.47 dated 20.5.2015 under Sections 497,328,379,120-B IPC,PS Division NO.3, Distt.Ludhiana and subsequent proceedings arising therefrom on the basis of compromise having been arrived at between her and complainant respondent no.2 husband-Manpreet Singh Marwaha at whose instance the FIR in question has been lodged.

It is averred that marriage of petitioner wife and respondent no.2 husband was solemnised on 14.2.1999. Out of the said wedlock two female children were born. Due to some misunderstanding the FIR in question was lodged by respondent no.2.

After dismissal of her bail application by the learned

Addl.Sessions Judge, Ludhiana, petitioner-wife approached this Court by way of CRM-M 22574/2015 seeking anticipatory bail. During the pendency of said bail application the matter was referred to Mediation and Conciliation Center of this Court. It is further averred that in the meantime matter was compromised between the petitioner and respondent no.2 and accordingly a joint petition under Section 13-B of the Hindu Marriage Act was filed in which statements of both petitioner and respondent no.2 were recorded on 6.11.2015.

During the mediation proceedings before this Court, a compromise was arrived at between the parties and accordingly a compromise deed(P-3) was reduced into writing by the Mediator on 4.2.2016. It was stated that respondent no.2 is ready to withdraw the above mentioned case against the petitioner and ready to make statement to that effect.

Vide order dated 18.3.2016 passed by this Court in the instant petition, parties were directed to appear before the learned Illaqa Magistrate for recording of their statements in terms of the compromise arrived at between them and the Illaqa Magistrate was directed to furnish a report with regard to the veracity of the compromise.

In compliance thereof, learned JMIC,Ludhiana vide report dated 2.5.2016 has reported that the petitioner and respondent no.2 appeared before the Court on 7.4.2016 and complainant-respondent no.2 voluntarily and without any pressure and coercion suffered a statement that he has no objection if the FIR in question is quashed. Both the parties were identified by their respective counsel.

At the time of hearing learned State counsel on instructions

submits that matter is still under investigation.

Hon'ble Supreme Court in **(2003)4 SCC 675, B.S.Joshi and others v State of Haryana and another** has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers under Section 482 of the Code.

A Full Bench of this Court in **Kulwinder Singh and others v State of Punjab and another, 2007(3)RCR(Criminal) 1052** has held that this Court, in appropriate cases, while exercising powers under Section 482 Cr.P.C., may quash an FIR disclosing the commission of non-compoundable offences. The relevant extract reads as under:-

“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 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

Hon'ble Apex Court in another case in **J.T.2008(9) SC 192 Nikhil Merchant v Central Bureau of Investigation and Another** while relying upon its decision in **B.S.Joshi's** case (supra) has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in

Madan Mohan Abot v State of Punjab, 2008(4) SCC 582, the relevant extract of which is as under:-

“We need to emphasise 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 utilised 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.”

Keeping in view the above settled legal position and taking into account the fact that both the parties are husband and wife, who have now decided to part ways amicably so as to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C., for quashing of the FIR in the interest of justice.

Accordingly, the present petition is allowed and FIR No.47 dated 20.5.2015 under Sections 497,328,379,120-B IPC,PS Division NO.3, Distt.Ludhiana and subsequent proceedings arising therefrom qua the petitioner-accused Simranjit Kaur are quashed.

18.05.2016
joshi

(Jaswant Singh)
Judge