

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

CRA-S-4872-SB-2014 (O&M)

Date of decision: 18.11.2016

Satwinder Chopra & Ors.

.....Appellants

Versus

State of Punjab & Anr.

.....Respondents

CORAM : HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Manvinder Singh Sidhu, Advocate,
for the appellants.

Mr. Arshdeep S. Kler, DAG, Punjab,
for respondent No.1-State.

Mr. Surinder Saini, Advocate,
for respondent No.2.

Jaishree Thakur, J.(Oral)

CRM-36195-2016

1. Instant criminal miscellaneous application has been filed seeking permission to place on record reply along with Annexure R-1 on record on behalf of respondent No.2.

2. For the reasons mentioned in the application criminal miscellaneous is allowed. Reply filed on behalf of respondent No.2 is taken on record.

CRM-2626-2016 in/and CRA-S-4872-SB-2014 (O&M)

1. Learned counsel for the appellants contends that a FIR No. 10 dated 07.01.2012 under Sections 307, 406, 498-A and 34 IPC came to be registered at Police Station City Ferozepur. After registration of the said FIR the accused were convicted and sentenced by learned Addl. Sessions

Judge, Ferozepur vide judgment and order dated 30.10.2014. Against the said judgment and order the instant appeal was preferred.

2. During the pendency of this appeal, an application bearing CRM-2626-2016 for compounding the offence has been filed by mentioning that the matter has been compromised between the parties on 16.11.2015.

3. As per the terms of the compromise, the marriage would be dissolved between Satwinder Chopra and Rajwinder Kaur by filing a petition under Section 13-B of the Hindu Marriage Act 1955 as there was no chance of reunion. It was also agreed that a sum of Rs. 16,00,000/- would be paid as full and final settlement towards maintenance/permanent alimony/maintenance of the minor child. Thereafter, Rajwinder Kaur, respondent herein, would have no further claim against the appellant herein. Pursuant to the said compromise a petition under Section 13-B of the Hindu Marriage Act was preferred and the marriage came to be dissolved by a decree of divorce dated 02.07.2016 (Annexure R-1). While recording the statements of the parties in the said order, it was noted that a sum of Rs. 16,00,000/- had been received as per the terms of the compromise while also noting factum of the compromise which was placed as Ex.P1 on the record. The instant appeal has been preferred against the judgment dated 30.10.2014. One of the terms of the compromise is that Rajwinder Kaur would assist in the quashing of the FIRs lodged and would sign all documents and affidavits if the need so arises and that she would also suffer a statement before the High Court in the appeal preferred against the conviction order passed by the Court of Addl. Sessions Judge, Ferozepur.

4. This fact has not been disputed by the counsel appearing on behalf of Rajwinder Kaur respondent No.2 who submits that she is bound by the compromise and would have no objection in case the permission to compound the offence is granted.

5. A question arose before this court in ***Sube Singh Vs Stae Of Haryana reported in 2013(4) R.C.R.(Criminal) 102*** as to whether criminal proceedings can be quashed by this Court under Section 482 Criminal Procedure Code when accused was found guilty and has been convicted by the trial Court and appeal therefrom is pending before Sessions Judge. The Division Bench of this court after referring to several judgments held that it has to be ascertained to the satisfaction of the court that the compromise arrived at between the parties is genuine, willful and bona fide. Relevant extract of the said judgment reads as under of the :-

*“16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the trial Court, we find that in **Dr.Arvind Barsaul etc. vs. State of Madhya Pradesh & Anr., (2008) 5 SCC 794**, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498A Indian Penal Code and sentenced to 18 months' imprisonment and his appeal was pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in*

view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

17. *The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case."*

6. The learned Division Bench went on to also hold that "Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings

subject to certain safeguards.”

7. The FIR that was registered, was on account of a matrimonial dispute that arose between the parties. It is a dispute which is private in nature and not against the public or the society at large. It is already a well settled principle of law that a FIR can be quashed in view of a compromise in case the crime/ offence complained of is not against the public or heinous in nature.

8. In the present case, a compromise has been effected, on the basis of which divorce has been granted under Section 13-B of the Hindu Marriage Act, permanent alimony of Rs. 16,00,000/- has been handed over, and statements were recorded to this effect while granting divorce under section 13-B of the Hindu Marriage Act, therefore compromise arrived at seems to be genuine.

9. Therefore relying upon the judgment in **Sube Singh's** case (supra) permission to compound the offence is granted. Resultantly, the present appeal is allowed, the judgment and order dated 30.10.2014 passed by learned Addl. Sessions Judge, Ferozepur arising out of FIR No. 10 dated 07.01.2012 under Sections 307, 406, 498-A and 34 IPC registered at Police Station City Ferozepur, is set aside.

18.11.2016
sp

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No.