

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

CRM-M No. 10022 of 2017(O&M)

Date of decision: 19.5.2017

Jaswinder Singh

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Sunita Gupta, Advocate for
Mr. Amandeep Sibia, Advocate for the petitioner.

Mr. Mikhail Kad, AAG, Punjab.

None for respondent No.2.

REKHA MITTAL, J.(Oral)

By invoking Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 109 dated 05.12.2010 for offence punishable under Sections 498-A, 494, 406, 506 of the Indian Penal Code registered at Police Station Jhunir, District Mansa and proceedings emanating therefrom on the basis of compromise (Annexure P-3) arrived at between the parties including the judgment of conviction and order of sentence dated 16.02.2015 (Annexure P-2), passed by Sub Divisional Judicial Magistrate, Sardulgarh, whereby the petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of one and a half year for offence punishable under Section 498-A IPC and to pay a fine of Rs.500/-, further in default of payment of fine to undergo simple imprisonment for a period of two months.

Counsel for the petitioner has submitted that in the present case, appeal preferred against said judgment is pending before the Appellate Court. However, during pendency of the appeal, the petitioner and complainant/respondent No. 2 have compromised the matter.

Vide order dated 24.03.2017, the parties were directed to appear before the Court of appeal to get their statements recorded with regard to genuineness of compromise. Simultaneously, the Appellate Court was also directed to submit its report with regard thereto.

Pursuant thereto, a report has been submitted by the Additional Sessions Judge, Mansa wherein it has been reported that statements of the parties have been recorded and they have voluntarily compromised the matter.

Counsel for the State has not disputed that the parties i.e. petitioner and respondent No.2 (complainant) have arrived at a settlement with an intent to give burial to their differences.

I have heard counsel for the parties and perused the records.

A Division Bench of this Court in **Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102** held that it would be open for this Court to exercise its power under Section 482 of the Code even after the accused was found guilty and convicted by the trial Court though the matter is subjudice before the Appellate Court. A relevant extract from the judgment is usefully quoted hereunder:-

“(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC 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 498-A IPC 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 CrPC 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 noncompoundable offences notwithstanding the bar under Section 320 CrPC 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."

A perusal of the allegations of aforesaid complaint reveals that the present case squarely falls in that category of cases which can be quashed by the High Court in exercise of its inherent power under Section 482 Cr.P.C.

Keeping in view the authoritative enunciation of law laid down by Hon'ble the Supreme Court in **Gian Singh v. State of Punjab and another, 2012(4) R.C.R. (Criminal) 543** and by this Court in **Sube Singh's case** (supra) coupled with genuineness of the compromise arrived at between the parties as reported by the Appellate Court, judgment dated 16.02.2015 passed by the Sub Divisional Judicial Magistrate, Sardulgarh (Annexure P-2), convicting and sentencing the petitioner is set aside by quashing FIR No. 109 dated 05.12.2010 under Sections 498-A, 494, 406, 506 IPC registered at Police Station Jhunir, District Mansa and proceedings emanating therefrom qua the petitioner. The appeal preferred

by the petitioner against the aforesaid judgment and order is rendered
infructuous and may be disposed of as such by the Appellate Court.

MAY 19, 2017		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no