

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

CRM No. M-34929 of 2016

Date of decision: 18.04.2017

Yuvraj @ Sonu Gilhotra

..... Petitioner.

Versus

Anita Rani and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Raman Mohinder, Advocate, for the petitioner.

Mr. Deshpreet Singh, Advocate, for respondent No.1.

Mr. Rajpreet Singh Sidhu, AAG, Punjab.

LISA GILL, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of Criminal Complaint No. 181-1 of 04.09.2009 CIS No. 3525/2013 titled as Anita Rani Vs. Yuvraj and others (**Annexure P-1**) along with consequential proceedings arising therefrom including judgment and order of conviction dated 05.09.2014 (**Annexure P-2**) passed by the learned Sub Divisional Judicial Magistrate, Abohar on the basis of a compromise arrived at between the parties.

The above said complaint arises out of a matrimonial discord between the petitioner and respondent No.1- Smt. Anita Rani. Vide judgment and order dated 05.09.2014, passed by the learned Judicial Sub Divisional Judicial Magistrate, Abohar, the petitioner has been convicted for the offence punishable under Section 498-A of the IPC and sentenced to undergo rigorous imprisonment for a period of one year; besides pay a

fine of Rs. 2,000/- and in default thereof undergo rigorous imprisonment for a period of three months

During the pendency of the appeal preferred by the petitioner before the learned Additional Sessions Judge, Fazilka challenging judgment and order dated 05.09.2014, a settlement was arrived at between the parties with the intervention of respectables and Panchayat. The petitioner and respondent No. 1 have decided to part ways. It is submitted that a petition under Section 13- B of the Hindu Marriage Act, 1955 filed by the petitioner and respondent No. 1 has since been allowed on 30.01.2017. It is submitted that respondent No. 1 no longer wishes to pursue the matter. The parties wish to carry on with their respective lives in peace and harmony after putting an end to the acrimony amongst them. Thus, it would be in the interest of justice to quash the aforementioned FIR and set aside judgment and order of conviction dated 05.09.2014.

Learned counsel for the petitioner relies upon a Division Bench Judgment of this Court in the case of **Sube Singh and another Vs. State of Haryana and another** 2013 (4) RCR(Criminal) 102 to contend that there is no impediment to the quashing of a complaint/FIR at the appellate stage, especially in matrimonial matters.

This Court on 03.03.2017 directed the parties to appear before the learned first appellate Court on 18.03.2017 for recording their statements in respect to the above-mentioned compromise. Learned first appellate Court was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at out of the free will and volition of the parties without any threat, coercion or undue pressure.

Pursuant to order dated 03.03.2017, the parties appeared before the learned Additional Sessions Judge, Fazilka and their statements were recorded on 18.03.2017. Respondent No.1-Smt. Anita Rani has stated that the matter has amicably resolved between the parties. Divorce by mutual consent has been granted. Respondent No. 1 has specifically stated that she has no objection in case the above said complaint/judgment and order of conviction are quashed. She has stated that the settlement has been effected out of her own free will without any pressure or threat. Statement of the petitioner in respect to the settlement was also recorded.

As per report dated 31.03.2017, submitted by the learned Additional Sessions Judge, Fazilka, it is opined that the settlement is voluntary, arrived at between the parties without any pressure or coercion.

Learned counsel for the complainant/respondent No.1 affirms and verifies the factum of settlement between the parties. It is submitted that respondent No. 1 has no objection, whatsoever to the quashing of the aforementioned complaint and consequent setting aside of the judgment and order dated 05.09.2014, passed by the learned Sub Divisional Judicial Magistrate, Abohar.

Learned counsel for the State submits that the present being a matrimonial dispute, the State has no objection to the quashing of this complaint on the basis of a settlement between the parties.

In **Kulwinder Singh and others versus State of Punjab and another** 2007 (3) R.C.R. (Criminal) 1052, a five member Bench of this Court has observed 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 of the Criminal Procedure Code 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”.

The Hon'ble Supreme Court in **B.S.Joshi and others v. State of Haryana**, 2003(4) SCC 675 has observed that it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

A division bench of this Court in Sube Singh's case (supra) has held as under:-

“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.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, Complaint No. 181-1 of 04.09.2009 CIS No. 3525/2013 is a fall out of a matrimonial dispute between the petitioner and respondent No.1. The matter has been amicably resolved between the parties, who wish to give a quietus to the entire issue and carry on with their lives. Report dated 31.03.2017 submitted by the learned Addl. Sessions Judge, Fazilka establishes that the compromise between the parties is genuine, bonafide and arrived at out of their own free will. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view of the facts and circumstances of this case, this petition is allowed. The judgment and order dated 05.09.2014 passed by the learned Sub Divisional Judicial Magistrate, Abohar is set aside on the basis of the settlement arrived at between the parties. Criminal Complaint No. 181-1 of 04.09.2009 CIS No. 3525/2013 titled as Anita Rani Vs. Yuvraj and others, alongwith all consequential proceedings are hereby quashed. Resultantly, the appeal preferred by the petitioner is rendered infructuous and shall be so declared by the learned Ist Appellate Court at Fazilka.

(LISA GILL)
JUDGE

18.04.2017
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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*