

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36669-2017

Date of decision: 30.11.2017

Dinesh Saini

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajesh Kapila, Advocate,
for the petitioner.

Ms. Gulnoor Ghumman, AAG, Punjab.

Mr. Mandeep Kaushik, Advocate for respondent No. 2.

Jitendra Chauhan, J. (Oral)

This is a petition under Section 482 Cr.P.C for quashing of criminal complaint No. 155 dated 24.1.2012 (Annexure P-1), under Sections 406/498-A of Indian Penal Code and also to set aside the judgment dated 26.10.2016 (Annexure P-2) passed by learned Chief Judicial Magistrate, Pathankot, whereby petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹ 5,000/- with default stipulation, on the basis of compromise dated 2.8.2017 (Annexure P-3), arrived at between the parties.

It is contended that with the intervention of the respectables, a compromise has been reached at between the complainant/wife and the petitioner. It was a matrimonial dispute which has been settled now. It is therefore, submitted that the petitioners be acquitted on the basis of compromise. In support of his assertion, reliance has been placed on

(i) Gian Singh vs. State of Punjab and another, 2012(4) RCR (Criminal) 543; (ii) Sube Singh and another vs. State of Haryana and another (2013) 4 RCR (Criminal) 102 (DB) and; (iii) Vinod Kumar Ohri and others vs. State of Punjab and another CRM M-10970 of 2017 decided on September 18, 2017.

On the other hand, the learned State counsel opposes the prayer of the learned counsel for the petitioner and submits that after a judgment of conviction has been passed, the petitioner cannot be acquitted on the basis of compromise.

Learned counsel for respondent No.2/complainant and the complainant/wife admit the factum of compromise.

Hon'ble the Supreme Court in ***Manohar Singh vs. State of Madhya Pradesh 2014 (3) RCR 685*** has held as under:-

“In this case, the appellant is convicted under Section 498-A of the IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and respondent No. 2-wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non compoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A of the IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the Court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.”

Hence, in view of the compromise reached at between the parties and the guidelines laid down by Hon'ble the Supreme Court, this Court feels that no useful purpose would be served in keeping the proceedings alive. It will be in the interest of justice, if the settlement reached between the parties is accepted.

Accordingly, the judgment of conviction passed by the learned Chief Judicial Magistrate, Pathankot dated 26.10.2016 is upheld while the order of the sentence of the petitioner is reduced from one year to the period already undergone by him. The petitioner is stated to be on bail. His bail bonds shall stand discharged.

The petition stands disposed of accordingly.

30.11.2017
preeti

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes
Whether reportable :	No