

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37984-2017

Date of decision-09.10.2017

Pawan and others

...Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gaurav Sharma, Advocate for
Mr. Ramesh Malik, Advocate for the petitioners.

JITENDRA CHAUHAN, J. (Oral)

By filing this petition under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C') petitioners seeks quashing of FIR No.182 dated 14.06.2017 registered under Section 304-B read with Section 34 of Indian Penal Code at Police Station Sadar Gohana, District Sonipat and for setting aside the other consequential proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2).

The learned counsel refers to compromise (Annexure P-2) to contend that the parties have amicably settled the matter.

Heard.

In Criminal Appeal No.1723 of 2017 titled as “**Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur and others Vs. State of Gujarat and another**” decided on 04.10.2017, Hon'ble Supreme Court has summarized the broad principles in respect of power of the High Court under Section 482 Cr.P.C. which are as under:-

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable;

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised ; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and

circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;
.....”

Admittedly, the instant case is a dowry death case and it involves heinous and serious offence.

In Division Bench judgement passed by this Court in CRM-M-40769-2014 titled as “**Baldev Singh Vs. State of Punjab and another**”, it has been held as under:-

“However, it is trite to mention that the power of the High Court under Section 482 Cr. P.C. can nevertheless be exercised in appropriate matters where it is felt that a prima facie case is not made out in consonance with the settled principles of law. There can indeed be no fetter on this power to act for securing the ends of justice or to prevent the abuse of process of law.

However this observation for a moment is not to be construed as taking the possibility of a conviction being bleak due to settlement, to be a relevant factor for quashing the FIR under Section 304-A IPC. Reference is thus answered in the negative as there can be no quashing of an offence registered under Section 304-A and subsequent proceedings, solely on the basis of a compromise arrived at between the legal

heirs/representatives of the victim (deceased) and the accused.”

FIR in the instant case was registered at the behest of complainant/respondent No.2 who is brother of the deceased. In the FIR the complainant has levelled specific allegations against the accused persons, being husband and in-laws of the deceased.

This Court feels that there cannot be a compromise on behalf of the dead person.

Accordingly, no case for quashing the FIR is made out.

Dismissed.

October 09, 2017

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No