

CRM -M-40881 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

CRM -M-40881 of 2016

Date of Decision: 30.5.2017

Nadar Khan

---Petitioner

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mohd. Salim, Advocate
for the petitioner
Mr. Neeraj Sharma, AAG, Punjab
Mohd. Tanveer Sheikh, Advocate
for respondent No.2**

Rekha Mittal, J.

By invoking Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), the petitioner has prayed for quashing FIR No.2 dated 3.1.2008 for offence punishable under Sections 498-A, 406 of the Indian Penal Code (in short "IPC") registered at Police Station, City Malerkotla, District Sangrur and for setting aside judgment of conviction and order of sentence dated 30.9.2015 passed by the Sub Divisional Judicial Magistrate, Malerkotla on the basis of compromise dated 27.10.2016 (Annexure P-3) arrived at between the parties.

In the present case, the FIR was registered on the statement of Mumtaz Parveen wife of Nadar Khan. Now, dispute between the parties has been resolved by way of compromise (Annexure P-2).

Vide order dated 18.11.2016, the parties were directed to

appear before the first appellate court to get their statements recorded with regard to genuineness of compromise.

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

Counsel for the State and respondent No. 2 have 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.

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 of Criminal Procedure even after the accused was found guilty and convicted by the trial Court though the matter is sub judice 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 Cr.P.C 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 non-compoundable 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 FIR 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 the genuineness of the compromise arrived at

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between the parties as reported by the first Appellate Court, judgment dated 30.9.2015 passed by the Sub Divisional Judicial Magistrate, Malerkotla convicting and sentencing the petitioner is set aside by quashing FIR No.2 dated 3.1.2008 for offence punishable under Sections 498-A, 406 IPC registered in Police Station, City Malerkotla, District Sangrur and proceedings emanating therefrom qua the petitioner.

(Rekha Mittal)
Judge

30.5.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No