

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

Crl. Misc. No. 8877 of 2018 and
Crl. Misc. 9998 of 2018 in
Crl. Appeal S-579 SB of 2015 (O&M)
Date of decision: 19.3.2018

Avtar Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Tarun Vir Singh Lehal, Advocate, Amicus Curaie,
for the applicant/appellant.

Mrs. Anju Arora, Additional Advocate General, Punjab.

JAISHREE THAKUR, J.

Crl. Misc. No. 8877 of 2018

1. Criminal Miscellaneous Application No. 8877 of 2018 has been filed in CRA-S-579-SB- of 2015 under section 482 of the Code of Criminal Procedure for recalling of order dated 28.11.2017.

2. Learned counsel for the applicant/appellant contends that the appellant herein had been convicted and sentenced by Additional Sessions Judge SAS Nagar, Mohali, by order dated 20.1.2015 under Section 498A IPC for a period of 2 years. Against this conviction an appeal was preferred, whereas Jagjeet Kaur the complainant wife also preferred an appeal for enhancement of the sentence i.e. CRA-S-3117-SB of 2015. During the pendency of both the appeals, the parties entered into compromise vide settlement deed 16.08.2017, wherein both decided to live together and

withdraw all cases filed against each other. So much so, they even decided to get set aside the divorce granted in favour of Jagjeet Kaur. An application (Crl. Misc. 37234 of 2017) was preferred for withdrawal of CRA-S-579-SB-of 2015 Avtar Singh Versus State of Punjab and another on the basis of the compromise. This application was preferred in person, which was allowed, not realizing that withdrawal of the appeal would still uphold the conviction. It is argued that since the matter stands compromised between the parties and they have resolved to withdraw all cases, the order dated 28.11.2017 should be recalled and parties be permitted to place compromise on record. Mr. Lehal submits that it is only ignorance on part of the parties concerned, that an application for withdrawing the case was instituted, whereas an application should have been filed for allowing the appeal and setting aside the conviction order on the basis of the compromise arrived at between the parties.

3. I have heard the counsel for the parties and have also perused the orders passed in this case.

4. Admittedly, an application had been filed for dismissing the criminal appeal as withdrawn by the appellant in person, which application was allowed on 28.11.2017. An office note was thereafter put up as to whether a docket for re-arrest of the appellant be put up and sent to the headquarters concerned. Thereafter, notices were issued by this court for the appellant to put in an appearance along with his counsel for 23.02.2018, on which date the appellant appeared and showed his inability to engage a counsel to pursue the instant appeal. In these circumstances Mr. Tarun Singh

Lehal, Advocate who was present in court was appointed as Amicus Curaie to assist the court.

5. Since the matter stands compromised and until and unless the order dated 28.11.2017 dismissing the appeal is not recalled, the conviction and sentence awarded by Additional Sessions Judge SAS Nagar, Mohali, by order dated 20.1.2015 under Section 498A IPC for a period of 2 years would stand and the appellant would have to undergo the sentence. It would be in the interest of both parties concerned that the order is hereby recalled.

6. Ordered accordingly.

Crl. Misc. 9998 of 2018

1. Criminal Miscellaneous Application No. 9998 of 2018 has been filed in CRA-S-579-SB- of 2015 under Section 482 of the Code of Criminal Procedure for setting aside the sentence awarded to the appellant and allowing the appeal filed on the basis of a compromise arrived at between the parties.

2. A few brief facts need to be noticed. A complaint was filed by Jagjeet Kaur alleging that she solemnized her marriage with Avtar Singh as per Hindu religious rites and ceremonies at Mohali on 02.09.2004. It was an inter-caste love marriage. Soon after her marriage there was interference in her married life by the parents of her husband and there was a demand of dowry. On account of harassment and torture, a FIR No. 147 dated 24.09.2013 was registered at Police Station Phase 11, SAS Nagar, District Sahibzada Ajit Singh Nagar, under Sections 406 and 498-A IPC and Section 3 (xi) of Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act 1989. The matter was investigated and challan put up. After conclusion of the trial, the appellant husband was acquitted of the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Section 406 IPC, however, was convicted for a period of 2 years under Sections 498A IPC, against which the present appeal was filed.

7. During the pendency of the criminal appeal, an application numbered as Criminal Miscellaneous No. 9998 of 2018 has been filed, stating that the matter has been compromised between the parties. Settlement deed dated 16.08.2017 has been placed on the record in which the terms of the settlement state that the parties have decided to reside together and all cases filed interse would be withdrawn. Based on the settlement arrived at between the parties, a request is made for setting aside the conviction and judgment passed a by Additional Sessions Judge SAS Nagar, Mohali, by order dated 20.1.2015 under Section 498A IPC. Both parties are present in court and affirm the settlement arrived at, while also confirming that they are happily residing together.

8. Mrs. Anju Arora, learned State counsel, submits that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble Supreme Court.

9. I have heard learned counsel for the parties and have gone through the record. In a decision, based on compromise, none of the parties is a loser. Rather, a compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society.

10. In **Sube Singh Versus State Of Haryana 2013 (4) RCR (Criminal) 102**, a Division bench of this Court was seized of a question whether inherent power under Section 482 Criminal Procedure Code could be exercised to quash criminal proceedings on the basis of a compromise entered into between the parties, even if the accused had been held guilty and convicted by the trial court. It was held in para 17 *that 'the magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code is 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 such power is fully justified on facts and circumstances of the case.'* After ascertaining the genuineness of the compromise between the parties and the settlement agreed upon, the Division Bench allowed the appeal preferred and set aside the conviction.

11. Similar is the case in hand. The parties have compromised the matter and residing together as husband and wife along with the minor child after the trial court had convicted the appellant herein and sentenced him to imprisonment for 2 years. Non-acceptance of the compromise by this court would jeopardize the relationship, while also disrupting their married life and cause a permanent rift between the parties. To secure the ends of justice and in the interest of all concerned, this is a fit case to invoke inherent jurisdiction under Section 482 Cr.P.C and quash the FIR (out of which the

present appeal has arisen) registered against the appellant. Therefore, the application is allowed and FIR No. 147 dated 24.9.2013 under Sections 406 and 498-A IPC and Sections 3 (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Phase 11 SAS Nagar, District Sahibzada Ajit Singh Nagar, and all subsequent proceedings arising out of the same are quashed. The impugned judgment of conviction and order of sentence dated 20.1.2015 passed by the learned Additional Sessions Judge SAS Nagar, Mohali, vide which the appellant has been convicted and sentenced for the offence under Section 498A IPC for a period of 2 years are set aside on the basis of the compromise.

The application stands disposed of.

Crl. Appeal S 579 SB of 2015

In view of the order passed in Criminal Misc. 9998 of 2018, the appeal stands allowed.

The Amicus Curaie Mr. Tarun Vir Singh Lehal shall be paid his fee by the High Court Legal Services Committee, as per rules.

19.3.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No