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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43684-2018
Date of decision-04.02.2019

Julian Sinha

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Satish Singla, Advocate for the petitioner.

Mr. Ankur Malik, AAG, Haryana assisted by
ASI Sandeep Kumar.

Respondent No.2 in person.

MANOJ BAJAJ, J.

Through this petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 847 dated 26.11.2016 (Annexure P-1) under Sections 66 (d) of I.T.Act, 2000 and Sections 406, 419 and 420 of Indian Penal Code registered at Police Station Sector-5, Gurgaon (Haryana) and the proceedings arising therefrom, on the basis of the affidavit/compromise (Annexure P-2) entered into between the parties.

Pursuant to the notice of motion order issued on 04.10.2018, respondent No.2 appeared in person and admitted that indeed she had received Rs.2,90,500/- from the petitioner. It was also not dispute that affidavit (Annexure P-2) was given by her. It was at that stage, the parties

were directed to appear before the trial Court/Illaqa Magistrate on 20.12.2018 for recording their statements in support of compromise.

Pursuant to the order dated 03.12.2018, the parties had appeared and the statements were recorded. The report dated 07.01.2019 by the Judicial Magistrate First Class, Gurugram has been received and in statement of respondent No.2 before Judicial Magistrate First Class, Gurugram, she retracted from her stand adopted before this Court on 03.12.2018. Before the Court she stated that affidavit was given only for the purposes of bail and on the basis of the same, the accused was released. She altered her stand and expressed her willingness to continue with the prosecution of the petitioner on the ground that she does not want to compromise with the accused. After receipt of the report, the matter was taken up again on 10.01.2019 and it was noticed that the stand adopted by the complainant-respondent No.2 is misleading and she retracted from her stand on compromise. Respondent No.2 was directed to appear in person to offer her an explanation as to why contempt proceedings be not initiated against her.

Today again, respondent No.2 is present in Court. She has tendered her unconditional apology and expressed that said stand before the Court was under wrong belief. She is willing to compromise the matter and the payment of Rs.2,90,500/- has already been received by her. At that stage, her separate statement was recorded, wherein respondent No.2 has expressed that she has no objection if the FIR No.847 dated 26.11.2016 under Section 66(d) of I.T.Act, 2000 and Sections 406, 419 and 420 IPC and the

proceedings arising out of it are quashed. In view of this, apology tendered by respondent No.2 is accepted.

The Full Bench judgment of this Court in **Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, categorically held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and is not confined to matrimonial disputes alone. The relevant para is extracted below :-

“29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.”

In **Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543**, the Hon'ble Supreme Court has also discussed the powers of High Court under Section 482 Cr.P.C. and the relevant portion reads as under :-

“The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the

Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the

compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Since the parties have settled the dispute and decided to live in peace, therefore, no meaningful purpose would be served in allowing the criminal proceedings to continue.

In view of the above, present petition succeeds and FIR No. 847 dated 26.11.2016 (Annexure P-1) under Sections 66 (d) of I.T.Act, 2000 and Sections 406, 419 and 420 of IPC registered at Police Station Sector-5, Gurgaon (Haryana) and all the subsequent proceedings arising therefrom are ordered to be quashed.

04.02.2019

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No