IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MMO No. 374 of 2020

Date of Decision: December 28, 2020

Pankaj Sharma ...Petitioner.

Versus

State of Himachal Pradesh & another ..Respondents.

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Vikas Rajput, Advocate, for the petitioner, through Video Conferencing.

Petitioner Pankaj Sharma, present in person.

For the Respondents: Mr. Desh Raj Thakur, Additional Advocate General, for respondent No.1, through Video Conferencing.

Mr. Sanjeev Kumar Motta, Advocate, for respondent No.2.

Respondent No.2 Jeena Rani, present in person.

Vivek Singh Thakur, J (Oral)

The instant petition, under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC') has been filed by petitioner-Pankaj Sharma, on the basis of compromise (Annexure P-3) arrived at between him and respondent No.2-Jeena Rani, for quashing of FIR No.40 of 2014 dated 15.04.2014, registered in Police Station, Nagrota Bagwan, District Kangra, H.P., under Sections

[1] Whether reporters of the local papers may be allowed to see the judgment?

323, 324 and 506 of the Indian Penal Code (herein after referred to as 'IPC') and subsequent proceedings i.e. Criminal Case No.153/2015, pending in the Court of Learned Judicial Magistrate, 1st Class-II, Kangra, District Kangra, H.P., arising thereto.

2. Pankaj Sharma-petitioner and respondent No.2-Jeena Rani are present in person in the Court today, who have been identified by their respective learned counsel. Separate statements of petitioner-Pankaj Sharma and respondent No.2-Jeena Rani, on oath, have also been recorded today in the Court.

3. In her statement, complainant Jeena Rani (respondent No.2) has stated that her marriage was solemnized with petitioner Pankaj Sharma on 14.02.2006 and because of differences marriage could not sustain and ultimately it has resulted into mutual divorce on 01.12.2020. She has further stated that during intervening period, she had lodged complaints against the petitioner, including registration of FIR No.40 of 2014 dated 15.04.2014 against him and now matter has been amicably settled and marriage has been dissolved with mutual consent. She has further stated that as per settlement their son shall remain with the petitioner till the age of 18 years and thereafter he shall be at liberty to take decision independently in this regard and she shall be having visiting rights to her son and petitioner has agreed to allow her to meet her son as and when occasion arises for that and as per settlement, petitioner has paid a sum of ₹7,00,000/- to her as full and final payment against permanent alimony. She has further stated that as per

compromise she has agreed to withdraw the criminal cases/complaints filed by her against the petitioner and as a result thereof, she has already withdrawn all other cases except FIR in reference in present petition i.e. FIR No. 40 of 2014 dated 15.04.2014, registered in Police Station Nagrota Bagwan, District Kangra, H.P. In view of compromise, she has sought permission to withdraw her complaint and has prayed for quashing of FIR as well as criminal proceedings incidental thereto initiated against the petitioner. Lastly she has stated that she has signed the compromise and has deposed in this Court, out of her free will, consent and without any external pressure, coercion or threat of any kind.

4. In his statement, petitioner-Pankaj Sharma has endorsed the statement made by respondent No.2-Jeena Rani. He has further stated that all other cases, except present one, have already been withdrawn/ cancelled by complainant. He has also stated that his deposition in this Court is out of his free will, consent and without any external pressure, coercion or threat of any kind.

5. It is contended on behalf of the respondent-State that petitioner is not entitled to invoke inherent jurisdiction of this Court to exercise its power on the basis of compromise arrived at between the parties with respect to an offence not compoundable under Section 320 Cr.P.C.

6. Three Judges Bench of the Apex Court in ***Gian Singh Vs. State of Punjab and Ors***. reported in ***(2012) 10 SCC 303***,

explaining that High Court has inherent power under Section 482 of the Code of Criminal Procedure with no statutory limitation including Section 320 Cr.PC, has held that these powers are to be exercised to secure the ends of justice or to prevent abuse of process of any Court and these powers can be exercised to quash criminal proceedings or complaint or FIR in appropriate cases where offender and victim have settled their dispute and for that purpose no definite category of offence can be prescribed. However, it is also observed that Courts must have due regard to nature and gravity of the crime and criminal proceedings in heinous and serious offences or offence like murder, rape and dacoity etc. should not be quashed despite victim or victim family have settled the dispute with offender. Jurisdiction vested in High Court under Section 482 Cr.PC is held to be exercisable for quashing criminal proceedings in cases having overwhelming and predominatingly civil flavour particularly offences arising from commercial, financial, mercantile, civil partnership, or such like transactions, or even offences arising out of matrimony relating to dowry etc., family disputes or other such disputes where wrong is basically private or personal nature where parties mutually resolve their dispute amicably. It was also held that no category or cases for this purpose could be prescribed and each case has to be dealt with on its own merit but it is also clarified that this power does not extend to crimes against society.

7. The Apex Court in ***Parbatbhai Aahir alias Parbhathbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and another, (2017) 9 SCC 641*** summarizing the board principles regarding inherent powers of the High Court under Section 482 Cr.P.C. has recognized that these powers are not inhibited by provisions of Section 320 Cr.P.C.

8. The Apex Court in case ***Narinder Singh and others vs. State of Punjab and others*** reported in ***(2014)6 SCC 466*** and also in ***State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688*** has summed up and laid down principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercise its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceedings.

9. No doubt Section 324 of IPC is not compoundable under Section 320 Cr.P.C. However, as explained by Hon'ble Supreme Court in **Gian Singh's, Narinder Singh's, Parbhatbhai Aahir's case and Laxmi Narayan's cases supra,** power of High Court under Section 482 Cr.PC is not inhibited by the provisions of Section 320 CrPC and FIR as well as criminal proceedings can be quashed by exercising inherent powers under Section 482 CrPC, if warranted in given facts and circumstances of the case for ends of justice or to prevent abuse of the process of any Court, even in those cases which are not

compoundable where parties have settled the matter between themselves.

10. Now, the matter has been amicably settled and marriage has been dissolved with mutual consent and as per settlement, petitioner and respondent No.2 are living their independent lives happily. In the given facts and circumstances, I am of the considered view that no fruitful purpose shall be served to continue the proceedings against the petitioner.

11. In ***Madan Mohan Abbot vs. State of Punjab, (2008) 4 SCC 582,*** the Hon'ble Supreme Court emphasized and advised that in the matter of compromise in criminal proceedings, keeping in view of nature of this case, to save the time of the Court for utilizing to decide more effective and meaningful litigation, a commonsense approach, based on ground realities and bereft of the technicalities of law, should be applied.

12. Offences in question, for material on record, do not fall in the category of offences termed to be prohibited, in the pronouncements of Apex Court, to be compounded exercising power under Section 482 of the Cr.P.C.

13. Keeping in view nature and gravity of offence and considering facts and circumstances of the case in entirety, I am of the opinion that present petition deserves to be allowed for ends of justice and the same is allowed accordingly and FIR No.40 of 2014 dated 15.04.2014, registered in Police Station, Nagrota Bagwan, District Kangra, H.P., is quashed. Consequent to quashing of FIR, criminal proceedings i.e. Criminal Case No.153/2015,

pending in the Court of learned Judicial Magistrate, 1st Class-II, Kangra, District Kangra, H.P., initiated against petitioner-Pankaj Sharma in pursuance thereto, are also quashed.

Petition stands disposed of in above terms.

Copy Dasti on usual terms.

(Vivek Singh Thakur),
Judge.

December 28, 2020
(Purohit)