

In the High Court of Punjab and Haryana at Chandigarh

**CRM-16034-2020 IN/AND
CRM-M No. 3047 of 2020
Date of Decision: 24.7.2020**

Dr. Nancy Garg and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Dr. Nancy Garg-petitioner No. 1 in person.

Mr. Amit Mehta, Sr. DAG, Punjab.

Mr. Deepak Aggarwal, Advocate
for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

CRM-16034-2020

Case is being taken up for hearing through video conferencing.

This is an application under Section 482 CPC for preponement of the main case, which has been fixed for 11.9.2020.

Petitioner No. 1 submits that the matrimonial dispute has been settled between the parties and the petition under Section 13-B of the Hindu Marriage Act, 1955 is pending for the second motion. She has prayed that the main petition may be preponed for today.

Notice of the application.

At this stage, Mr. Amit Mehta, Sr. DAG, Punjab and

Mr. Deepak Aggarwal, Advocate have appeared and accepted notice on

behalf of the State and respondent No. 2, respectively. They have no objection if the hearing in main case is preponed and the case is taken up for final disposal today itself.

For the reasons mentioned in the application, the same is allowed.

Main case is preponed from 11.9.2020 and is taken up on board for hearing today itself.

CRM-17540-2020

This is application for placing on record order dated 16.3.2020 and affidavit dated 9.3.2020 as Annexures A-1 and A-2, respectively.

For the reasons mentioned in the application, the same is allowed as prayed for.

CRM-M-3047-2020

This petition has been filed for quashing of FIR No. 121 dated 17.8.2016 registered under Sections 323, 342, 382, 34 IPC, Police Station Sadar Sangrur, District Sangrur and all the consequent proceedings arising therefrom, on the basis of oral compromise arrived at between the parties which was reduced in writing in the petition filed under Section 13-B of the Hindu Marriage Act, 1955.

The Coordinate Bench of this Court, vide order dated 24.1.2020, directed the trial Court to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Additional Chief Judicial Magistrate, Sangrur has submitted a consolidated report vide letter dated 25.2.2020 wherein it has been stated that petitioners No. 1 and 2 along with respondent No. 2 appeared before the Court and got recorded their statements with

regard to compromise. However, statement of petitioner No. 3-Dr. Sachin Garg could not be recorded as he did not appear before the trial Court because of non-availability of the tickets. It has also been reported that the statement of the investigating officer has also been recorded and he stated that there are as many as two victims in the FIR i.e. Dr. Mohit Goyal and Dr. Poonam Bharti. As per the report, the compromise arrived at between the parties is genuine and voluntary.

Learned counsel for respondent No. 2 has placed on record the order dated 16.3.2020 (Annexure A-1) passed in CRM-M-1352-2020 vide which FIR No. 15 dated 18.1.2016 under Sections 406, 498-A IPC registered at Police Station City Sangrur, District Sangrur has been quashed by a Coordinate Bench of this Court, on the basis of compromise effected between the parties. The said FIR was registered against Mohit Goyal (respondent No. 2) and others on the complaint of petitioner No. 1-Dr. Nancy Garg. Learned counsel has also placed on record affidavit dated 9.3.2020 (Annexure A-2) tendered by victim Dr. Poonam Bharti.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“57. 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 pre-dominantly 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 personnel 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.”

The same view has been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.***

Since the parties have arrived at the compromise and have decided to live in peace and that FIR No. 15 dated 18.1.2016, got registered by petitioner No. 1-Dr. Nancy Garg, under Sections 406, 498-A IPC registered at Police Station City Sangrur, District Sangrur has also been quashed vide order dated 16.3.2020, no useful purpose would be served in allowing the criminal proceedings initiated at the instance of respondent No. 2, to continue.

Accordingly, this petition is allowed. FIR No. 121 dated 17.8.2016 registered under Sections 323, 342, 382, 34 IPC, Police Station Sadar Sangrur, District Sangrur and all the consequential proceedings, arising therefrom, are quashed qua the petitioners on the basis of compromise arrived at between the parties subject to their depositing costs of Rs. 10,000/- with the Shri Guru Granth Sahib Sewa Society (Regd.), opposite New Public School, Sector-18, Chandigarh.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

(HARNARESH SINGH GILL)
JUDGE

July 24, 2020
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No