

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24707-2020

DECIDED ON: 12th October, 2020

JATINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Ms Roja Agnihotri, Advocate for the petitioner.
Mr. Joginder Pal Ratra, DAG, Punjab.
Ms. Sanjana Bhatia, Advocate for respondent No.2.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 482 of Cr.P.C for quashing FIR No. 24, dated 18th March, 2020 registered under Section 316 of the Indian Penal Code, 1860 at Police Station Sadar, Rupnagar and all subsequent proceedings arising therefrom.

The FIR was at the instance of Sandeep Kaur wife of Jatinder Singh. The marriage of the complainant and accused was solemnized in July, 2019. The allegations were that petitioner gave beating to respondent No.2 and eight months foetus died as petitioner kicked the complainant in her stomach. The petitioner was arrested and is behind the bars.

The matter was compromised and deed dated 19th August, 2020 is annexed with the petition. The complainant-wife in the affidavit has stated that it was due to mis-understanding that a dispute arose and the allegations were levelled in the FIR. She stated in the bail proceedings before the trial Court

that the husband was not responsible for termination of pregnancy.

This petition is filed for quashing of FIR on the basis of compromise.

This Court vide order dated 27th August, 2020 directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and status report was sought.

In pursuance thereof, the Judicial Magistrate Ist Class, Rupnagar has submitted a report dated 17th September, 2020. The relevant portion of the report is quoted below:-

“The statement of the learned APP for the State was recorded vide which it has been recorded that the accused is first time offender and is not declared a proclaimed offender. As per the report of the Ahlmad of the Court of the undersigned and the statement of the learned APP for the State, the accused Jatinder Singh is the only accused in the FIR No.24, dated 18.03.2020. Copies of the statements and compromise deed Ex.C1 are enclosed herewith for your kind perusal.”

Learned State counsel, on instructions from ASI Jasmer Singh, submits that the complainant-wife is residing with her in-laws and has stated that she wants to continue to stay with her in-laws and the mis-understanding has been resolved

As per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Punjab and another 2012 (4) RCR (CrL.) 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 2 of 3 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.”

The husband and wife have entered into compromise and patched up their past differences. Though the allegations in the FIR were serious, ordinarily the power to quash the FIR would not have been exercised, however, considering that it is a family dispute and continuing of criminal proceedings would only result in harassment and affecting the relationship.

To serve the ends of justice, this petition is allowed and FIR No. 24, dated 18th March, 2020 registered under Section 316 of the Indian Penal Code, 1860 at Police Station Sadar, Rupnagar and all subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioner in order to providing an opportunity to the couple to live peaceful life together.

(AVNEESH JHINGAN)
JUDGE

12th October, 2020
sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>