

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

CRM-M-3339-2021

Date of Decision : 05.03.2021

Saurabh Vashist and others

...Petitioners

Versus

State of U.T. Chandigarh and another

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Rohit Tyagi, Advocate for the petitioners.

Mr. Shashank Bhandari, APP, U.T. Chandigarh.

Ms. Ratika Sharma, respondent No.2 in person.

B.S. Walia, J.

1. Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No. 0094 dated 05.08.2019, registered under Sections 406, 498-A, 34 IPC at Police Station Women Police Station, Chandigarh and all consequential proceedings emanating therefrom on the basis of compromise, Annexure P/2, dated 26.11.2019.

2. Learned counsel contends that respondent No.2 was married to petitioner No.1 on 24.11.2016 according to Hindu Rites and ceremonies at Ashirwad Banquet Hall, Zirakpur, Mohali, Punjab according to Hindu Rites and Ceremonies but relationship between the parties became strained due to incompatibility and temperamental differences and petitioner No.1 and respondent No.2 could not adjust with each other, resultantly, the parties started residing separately w.e.f. 25.05.2018, eventually leading to respondent No.2 registering FIR No. 0094 dated 05.08.2019, under Sections 406, 498-A, 34 IPC at Police Station Women Police Station, Chandigarh. However, with the intervention of respectable members of

society as well as counsel of the parties, the matter was amicably resolved by way of compromise Annexure P/2 dated 26.11.2019. and the parties agreed to dissolve their marriage by way of divorce by mutual consent. Further that in pursuance of compromise, respondent No. 2 has withdrawn petition u/s 12 of the PWDV Act as also Section 125, Cr.P.C. before the Court of Shri Sanjay, Judicial Magistrate, Chandigarh. Besides divorce petition u/s 12(1) (c) & 13(1)9ia) HMA filed against respondent No. 2 has also been withdrawn from the Court of Ms. Bimla Kumari, Principal Judge, Family Court, Rohini Court, Delhi and as per settlement petitioner has agreed to pay Rs. 14,00,000/- to respondent No. 2 towards full and final settlement of her remaining claims for articles, stridhan, jewelry, marriage expenses, maintenance, past, present and future and permanent alimony etc and respondent No. 2 also agreed to accept said amount as full and final settlement on behalf of herself, that as per settlement, petitioner No. 1 has paid Rs. 10,00,000/- to respondent No. 2 before the Family Court Rohini Court, Delhi at the time of recording of statement in first and second motion divorce petition u/s 13 (B) HMA and petitioner No. 1 shall pay the last and final installment of Rs. 4,00,000/- to respondent No. 2 at the time of quashing of the FIR, that marriage of petitioner No. 1 and respondent No. 2 had been dissolved by decree of divorce by the Court of Sh. Deepak Garg, Judge, Family Court, Rohini Courts, Delhi vide order dated 17.02.2020 in HMA No. 331/2020 i.e. Annexure P/3 and in furtherance of compromise, the instant petition has been filed for quashing of FIR No. 0094 dated 05.08.2019, registered under Sections 406, 498-A, 34 IPC at Police Station Women Police Station, Chandigarh and all consequential proceedings emanating therefrom on the basis of compromise, Annexure P/2, dated

3. Learned counsel contends that pursuant to the order of this Court dated January 25, 2021 statement of the parties were recorded by the learned Judicial Magistrate, 1st Class, Chandigarh qua amicable settlement of the dispute and after recording of statement of the parties, report dated 04.02. 2021 was forwarded by the learned Judicial Magistrate, 1st Class, Chandigarh, that the parties had compromised the matter vide deed dated 26.11.2019 without any influence, coercion etc and that respondent No. 2 / complainant had suffered a statement that she had no objection, if the FIR in question was quashed, that the Court was satisfied that the compromise between the parties was genuine and the outcome of free consent of the parties and as per the record, no PO proceedings were pending against any of the 3 accused nor was there any cross case pending between the parties etc, besides, challan had not been presented.

4. Learned APP, U.T. Chandigarh as well as learned counsel for respondent No.2 admit amicable settlement of the dispute between the parties in terms of compromise Annexure P/2 dated 26.11.2019, as also divorce by mutual consent, and submit that in view of the statement by the parties before the learned JM, 1st Class, Chandigarh of the dispute having been amicably settled, they have no objection if the FIR and all consequential proceedings in respect thereto are quashed.

5. Learned Counsel have also referred to the decision of Hon'ble the Supreme Court in ***Gian Singh v. State of Punjab and another, 2012 (4) RCR (Crl.) 543, B.S. Joshi and others vs. State of Haryana and another 2003 (2) RCR (Criminal) 888*** as well as Hon'ble Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab and another, 2007 (3) RCR (Criminal) 1052***. Relevant extract of the aforementioned decision's is

Extract of the decision in Gian Singh's case (supra)

“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 predominatingly civil flavor 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.”

Extract of the decision in B.S. Joshi’s case (supra)

“10. In *State of Karnataka v. L. Muniswamy & Ors.* [(1977) 2 SCC 699], considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now

she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputed with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Answer clearly has to be in 'negative'. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of *bonafides*.

11. In *Madhavrao Jiwarelrao Scindia & Ors. v. Sambhajirao Chandrojlrao Angre & Ors. [(1998) 1 SCC 692]*, it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to

continue. Where, in the opinion of the Court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13. The observations made by the Court, though in a slightly different context, in *G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693]* are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their

disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code.”

Extract of the decision in Kulwinder Singh’s case (supra)

“39. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant

matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

40. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

6. I have heard learned counsel for the parties and gone through the record. The law encourages amicable settlement of matrimonial litigation instead of the parties fighting it out in courts for years and in the process losing out on the prime of their youth in chasing their "cases" in different courts. Admittedly in the eventuality of compromise of a dispute, both sides stand to gain as the compromise not only brings peace and harmony between the parties, but also restores tranquility in society. Bringing an end to the criminal case would enable the parties to move on and rebuild their life.

conviction are bleak. Therefore, no useful purpose will be served by continuing the criminal prosecution. In the light of the position noted above and *to secure the ends of justice*, I am of the considered view that there is no impediment in the way of this Court in exercising its inherent powers under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom.

7. Accordingly, in the light of position noted above, the instant petition is allowed. FIR No. 0094 dated 05.08.2019, registered under Sections 406, 498-A, 34 IPC at Police Station Women Police Station, Chandigarh and all consequential proceedings emanating therefrom are quashed. Parties are directed to adhere to the terms and conditions of the compromise/statements made in the First and Second Motion as also compromise Annexure P/2. Failure to adhere to the same would render the defaulting party liable for proceedings under the Contempt of Courts Act, 1971 as also entitle the aggrieved party to take out appropriate proceedings in respect thereto in accordance with law. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

March 05, 2021
'rajesh'

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