

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

CRM-M No.2897 of 2021
Date of Decision : 03.06.2021

Ajay Kumar and anotherPetitioners

v/s

State of Haryana and anotherRespondents

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

Present: Mr. Manoj Pundir, Advocate for the petitioners.
Mr. Naveen Kumar Sheoran, DAG, Haryana.
Mr. Tarun Singla, Advocate for Ms. Savita Rana, Advocate for
respondent No. 2.

B.S. Walia, J.

Case is being taken up for hearing through Video Conferencing
due to Covid-19 pandemic.

[1] Prayer in the petition under Section 482 Cr.P.C. is for quashing of
FIR No.97 dated 24.12.2019 registered under Sections 323, 406, 498-A, 506
IPC (Sections 354, 376, 511 of IPC were deleted later on), at Women Police
Station Assandh, District Karnal along with all consequential proceedings
emanating therefrom on the basis of compromise (Annexure P-2) dated
11.01.2021.

[2] Learned counsel contends that marriage of petitioner No.1 and
respondent No.2 took place on 27.01.2019 according to Hindu Rites,
Ceremonies and Customs at Village Salvan, Tehsil Assandh, District Karnal
but the parties could not adjust due to temperamental differences,
consequentially were staying separately since 09.07.2019, that no child was

born out of the wedlock, that respondent No.2 registered FIR No.97 dated 24.12.2019 under Sections 323, 354, 376, 406, 498-A, 506 and 511 IPC at Women Police Station Assandh, District Karnal against the petitioners and Anuj and Madhu but during investigation, Anuj and Madhu were found innocent and final report / challan / charge sheet was filed under Sections 323, 406, 498-A, 506 IPC against Ajay and Suman (i.e. petitioners) only. However, with the intervention of respectable persons of families of both sides as well as society, the matter had been amicably resolved by way of compromise (Annexure P-2) dated 11.01.2021 and it had been agreed that the petitioner No. 1 and respondent No. 2 would file a petition under Section 13-B Hindu Marriage Act, 1955 at Karnal for divorce by mutual consent, that petitioner No.1 had paid a sum of Rs.7 lakhs in cash to respondent No.2 towards full and final settlement for the past, present and future maintenance and towards permanent alimony at the time of recording of statement of first motion in the petition under Section 13-B, Hindu Marriage Act, 1955 and the divorce case was now fixed for recording of statement of second motion on 13.07.2021. Entire *istridhan* / dowry articles including gold, silver ornaments belonging to respondent No.2 had been returned to her and nothing was due against the petitioners, trial of the case was pending in the Court at Assandh, District Karnal and respondent No.2 had no objection if the FIR was quashed / cancelled as the parties wanted to live peacefully in society by leading a normal life after ignoring past differences, therefore compromise had been arrived at keeping in mind the long-lasting welfare of their respective families. Accordingly, in order to maintain peace and harmony, respondent No.2 had agreed not to pursue the aforesaid criminal case registered against the petitioners and had no

objection, in case the FIR and all consequential proceedings arising thereto were quashed.

[3] Learned counsel contends that while noticing the amicable settlement of the dispute between the parties as also stand of learned counsel for respondent No.2 admitting compromise (Annexure P-2) dated 11.01.2021, receipt of the settled amount, besides pendency of the petition under Section 13-B Hindu Marriage Act, 1955, the parties were directed to appear before the learned trial Court on 04.02.2021 for recording of their statements but since 02 of the accused had been declared innocent, directions were issued for recording statement of the Investigating Officer regarding the role and innocence of Anuj and Madhu, and to submit a report in respect thereto on or before the next date.

[4] Pursuant to the order of this Court dated 22.01.2021, statement of the parties were recorded by the learned Civil Judge (Junior Division)-cum-JMIC, Assandh and report dated 04.02.2021 forwarded to this Court as per which, it emerged that due to the intervention of Panchayat and respectable persons of the society, a compromise had been effected between the parties to bring litigation to an end in order to have peaceful and harmonious relations, besides, the complainant had also stated that she was having no objection, if FIR No.97 dated 24.12.2019 registered under Sections 323, 406, 498-A, 506 IPC, at Women Police Station Assandh was quashed. The report also mentions that apart from the statement of the parties, the Judicial Officer had also enquired about the compromise between the two sides independently from the complainant, accused as well as respective counsels and in view of the stand of the respective parties, he was of the opinion that the compromise arrived at between the parties was genuine, voluntary, bona fide and without any pressure, and the complainant was having no objection, if FIR No.97 dated

Police Station Assandh was quashed, that they were 04 persons i.e. petitioners besides Anuj and Madhu, who were arrayed as accused in FIR No.97 dated 24.12.2019 but 02 accused i.e. Anuj and Madhu were found innocent on enquiry conducted by Shri Dalbir Singh, DSP, whereupon Sections 354, 376, 511 IPC were deleted and challan filed only against the petitioners, no accused had been declared as proclaimed offender or proclaimed person in the case, that the compromise between the parties was genuine, bona fide, without any pressure and voluntarily made by the parties and as per the Investigating Officer, no other FIR was pending against the accused. Statement of the Investigating Officer, ASI Parveen Lata was also recorded to the above effect and further that in an enquiry conducted by Shri Dalbir Singh, DSP Anuj and Madhu were found innocent whereupon Sections 354, 376, 511 IPC were deleted and challan was filed only against the petitioners under Sections 323, 406, 498-A & 506 IPC.

[5] Learned State Counsel 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 11.01.2021. Statement of the parties (i.e. petitioners, as well as respondent No.2) have been recorded by the learned Civil Judge (Junior Division-cum-Judicial Magistrate 1st Class, Assandh on 04.02.2021, dispute between the parties has been amicably settled and respondent No.2-complainant has no objection, if the FIR is quashed.

[6] Learned counsel have referred to the decision of Hon'ble the Supreme Court in **Gian Singh v. State of Punjab and another, 2012 (4) RCR (Crl.) 543**, and **B.S. Joshi and others vs. State of Haryana and another 2003 (2) RCR (Criminal) 888** besides decision of Hon'ble the Full Bench of this Court in **Kulwinder Singh and Others v. State of Punjab and another, 2007**

(3) RCR (Cr1.) 1052. Relevant extract of the aforementioned decisions is reproduced as under :-

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 Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao 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."

[7] I have heard learned counsel for the parties and gone through the record.

[8] The law encourages amicable settlement of matrimonial litigation instead of the parties fighting it out in Courts for years and in that process losing in upon their youth in chasing cases in different Courts. Admittedly, in the eventuality of compromise of a dispute, everyone is a winner as the

restores tranquility in society. Besides in the facts and circumstances of the case, ultimate chances of eviction are bleak, therefore, no useful purpose would be served by allowing the criminal prosecution to continue. Moreover, two of the accused namely Anuj and Madhu were found innocent in an enquiry conducted by Shri Dalbir Singh, DSP whereupon Sections 354, 376 and 511 IPC were deleted and challan was filed only against the petitioners under Sections 323, 406, 498-A and 506 IPC. Respondent No.2 has also made a statement that petition for divorce under Section 13-B, Hindu Marriage Act, 1955 has been filed and statement on first motion has been recorded and the case is fixed for recording of second motion on 13.07.2021, that the matter had been settled and respondent No. 2 had received Rs.7 lakhs in full and final settlement of all her claims.

[9] In the light of the position noted above, no useful purpose would be served by allowing the criminal prosecution to continue. Accordingly, in order 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.

[10] Accordingly, in the light of the position noted above, instant petition is allowed. FIR No.97 dated 24.12.2019 registered under Sections 323, 406, 498-A, 506 IPC, at Women Police Station Assandh, District Karnal along with all consequential proceedings emanating therefrom are quashed.

[11] Parties are directed to adhere to the terms and conditions of the compromise (Annexure P-2) dated 11.01.2021, first motion statement of the parties, as well as other terms and conditions of the compromise. Failure to

proceeding under the Contempt of Courts Act, 1971 but would also entitle the aggrieved party to take out appropriate proceedings in respect thereto, in accordance with law.

[12] Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

03.06.2021
‘Rajneesh’

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