

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

CRM No.33462 of 2021 in
CRM No.33762 of 2019 in/and
CRR No.220 of 2014(O&M)
Date of Decision: October 08, 2021

Hardip Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG Punjab.

None for respondent No.2.

JAISHREE THAKUR, J. (Oral)

CRM-33462-2021

This is an application that has been filed seeking to prepone hearing in the main case along with misc. application bearing CRM-33762-2019, which are now listed for 24.11.2021.

For the reasons mentioned in the application, the same is allowed. Hearing in the main case as well as said misc. application is preponed and the same are taken up for hearing today.

CRR-220-2014 &
CRM-33762-2019

1. The instant criminal revision petition has been filed seeking to challenge the order dated 18.03.2013 passed by the Additional Sessions Judge Ferozepur, to the extent whereby, the petitioner herein has been convicted under Section 498-A of Indian Penal Code.

2. In brief, the facts of the case are that petitioner-Hardip Singh and complainant-respondent No.2-Rupinder Kaur solemnized a marriage on 24.02.2002, out of which wedlock a girl child was born on 09.05.2003. However, said marriage could not survive the test of time, which resulted in registration of FIR No.156 dated 11.08.2004, under Sections 498-A, 406, 120-B of Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act at Police Station City Abohar by the complainant, on the allegations of demand of dowry, maltreatment, physical abuse, misappropriation of dowry articles etc. The said FIR was registered against the petitioner-husband herein along with his other family members, however, after conclusion of trial, all the accused persons were acquitted by the court of Judicial Magistrate Ist Class, Abohar vide a judgment dated 07.03.2011. Feeling aggrieved against acquittal of the accused persons, the complainant filed an appeal before the Additional Sessions Judge, Ferozepur, which resulted in conviction of *only* the petitioner under Section 498-A of Indian Penal Code and the appeal stood dismissed qua the remaining family members of the petitioner. The said conviction of the petitioner-husband by the Additional Sessions Judge, Ferozepur is under challenge in the instant criminal revision petition.

3. The instant criminal revision stood admitted by an order dated 18.03.2014 and the sentence of the petitioner herein was also suspended. Thereafter, by way of misc. application (CRM-33760-2019) complainant-Rupinder Kaur was impleaded as a party in this case and by way of misc. application (CRM-33762-2019) it was requested that main case be decided on the basis of compromise dated 21.10.2019 arrived at between the parties. By way of said compromise, both the parties *inter alia* agreed to part ways by way of filing a joint petition under Section 13-B of Hindu Marriage Act and the petitioner husband was to pay Rs.35 lacs to the complainant-wife and his daughter as maintenance in lump sum, besides withdrawing cases filed by them against each other including the present one. Thereafter, on the basis of request made in misc. application (CRM-33762-2019), the parties were directed to appear before the trial court/Illaqa Magistrate to get their statements recorded regarding factum of compromise. In compliance of the said order, the statements were got recorded by the Judicial Magistrate Ist Class, Abohar on 22.01.2020 and report was sent to this court. Both the parties also got a decree of divorce under Section 13-B of Hindu Marriage Act on 22.01.2020. Thereafter, the petitioner herein performed his second marriage on 30.01.2020 with Mandeep Kaur Cheema, who is resident of Canada.

4. Learned senior counsel for the petitioner herein would argue that as the matter has been compromised and all matrimonial disputes have been amicably settled, the instant criminal revision petition be allowed and the impugned judgment of conviction passed by the Additional Sessions Judge, Ferozepur be set aside. It is submitted that statement of complainant-

respondent No.2 already stood recorded before the trial court that she would have no objection, if the judgment of conviction passed by the Additional Sessions Judge, Ferozepur is set aside and the petitioner is acquitted. In support of his arguments, learned senior counsel relies upon latest judgment rendered by the Apex Court in **Ramgopal and another vs. State of Madhya Pradesh, 2021 SCC Online SC 834**, to contend these criminal proceedings being purely personal and private nature, can be set aside by this Court even if there is a conviction of the petitioner under Section 498-A of IPC. He further relies upon judgment rendered by Division Bench of this Court in **Sube Singh and another vs. State of Haryana and another, CRM-M-38140 of 2011, decided on 09.04.2013** and judgment rendered by the Apex Court in **Narinder Singh and others vs. State of Punjab and another, Criminal Appeal No.686 of 2014, decided on 27.03.2014**.

5. Per contra, learned counsel for the respondent-State opposes the prayer made by learned senior counsel for the petitioner in general.

6. I have heard learned counsel for the parties and have gone through the pleadings of the case.

7. The only question before this Court is whether this court can quash the instant FIR along with conviction of the petitioner herein under Section 498-A of Indian Penal Code while exercising inherent power provided under Section 482 Cr.P.C. Section 482 Cr.P.C., which deals with inherent power of the High Court reads as under;-

“482. Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or

to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

8. It is clear that offences which are non-compoundable under Section 320 Cr.P.C. cannot be compounded by a criminal court. However, Section 320 Cr.P.C. is not an embargo against invoking inherent powers vested in the High Court under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can exercise its inherent powers under Section 482 Cr.P.C. to prevent abuse of the process of any court, or to secure the end of justice. Thus, the High Court can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. In so far as power of quashing under Section 482 Cr.P.C. is concerned, it is guided by the material on record as to whether the ends of justice would justify such exercise of power, even though the ultimate consequence may be acquittal of the accused. The Division Bench of this Court in **Sube Singh and another vs. State of Haryana and another (supra)** has observed that non-acceptance of the compromise would also lead to denial of complete justice, which is the very essence of our justice delivery system. Since, there is no statutory embargo against invoking of power under Section 482 Cr.P.C., after conviction of an accused by the trial court and during the pendency of appeal against such conviction, the High Court could invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.

9. In its latest judgment rendered in **Ramgopal and another vs.**

State of Madhya Pradesh (supra) the Apex Court has held as under:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

10. In the present case, the marriage was solemnized in the year 2002 and the FIR came to be registered in the year 2004. The petitioner herein was initially acquitted by the trial court, but convicted in appeal. This criminal revision petition is pending since 2014. During the pendency of the criminal revision before this court, the matter stood compromised between the parties. The statement of the parties, which have recorded the genuineness of the compromise, are also available on record. Further, pursuant to the said compromise, a decree of divorce had already been obtained under Section 13-B of Hindu Marriage Act on 22.01.2020, subsequent to which, the petitioner herein also performed second marriage on 30.01.2020 with Mandeep Kaur Cheema, who is resident of Canada and

a photocopy of Marriage Certificate is available on record as Annexure A-2. Pursuant to the compromise, complainant-wife Rupinder Kaur has already received Rs.35 lacs from the petitioner as a lump sum amount towards maintenance etc. for herself as well as her daughter Sukhmandeep Kaur. Moreover, complainant-respondent No.2 has no objection, if the instant criminal revision filed by the petitioner is accepted and he is acquitted. Being a matrimonial dispute, it is purely personal and private in nature, and both the parties have buried their differences without any coercion or compulsion, in other words, willingly and voluntarily.

11. In view of the above ratio of law settled by the Apex Court, as discussed above, this court is of the considered opinion that this is a fit case to exercise inherent powers vested in this Court under Section 482 Cr.P.C. and quash the FIR and subsequent conviction of the petitioner under Section 498-A of IPC. Consequently, the judgment and order dated 18.03.2013 passed by the Additional Sessions Judge, Ferozepur in Criminal Appeal No.17 of 15.04.2011 is hereby set aside. The petitioner stands acquitted under the present FIR. Resultantly, the instant criminal revision stands disposed of accordingly.

12. Needless to say, pending application(s), if any, stands disposed of accordingly.

October 08, 2021

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No