

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28006 of 2019
Date of decision : 27.05.2021

Bharat Bhushan Kapoor and Others ...Petitioners

Versus

State of Haryana and anotherRespondents

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

Present : Mr. Anshul Gupta, Advocate for the petitioners.
Mr. Vivek Chauhan, Addl. AG, Haryana.
Mr. Sudhir Kumar Pandey, Advocate for respondent No.2.

B.S. Walia, J.

[1] Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.68 dated 22.05.2019, registered under Sections 323/406/506/34 IPC at Police Station Kalka, District Panchkula along with all consequential proceedings emanating therefrom on the basis of compromise, Annexure P-2, dated 18.06.2019.

[2] Learned counsel contends that the aforementioned FIR was registered against the petitioners at the instance of the complainant / respondent No.2 due to harassment by her husband and his other family members, however, with the intervention of the panchayat and respectable members of society, the matter has been compromised vide Annexure P-2 dated 18.06.2019 and the complainant and her husband i.e. petitioner No. 2 have agreed to get a divorce by petitioner No. 2 filing a divorce petition before the competent court at Australia etc, and in pursuance thereto, the complainant / respondent No.2 has no objection if the aforementioned FIR is quashed by this Court.

[3] That it needs mentioning here that compromise, Annexure P-2 dated 18.06.2019 was executed between petitioner No.1 and the complainant / respondent No.2 and vide order dated 17.12.2019, while noticing the stand of learned counsel for respondent No.2, admitting the factum of compromise, parties were directed to appear before the learned trial Court / Illaqa Magistrate on or before 15.01.2020 for recording of their statements with regard to compromise / settlement and the learned trial Court / Illaqa Magistrate was directed to submit a report in respect thereto on or before the next date.

[4] Pursuant to the order of this Court dated 17.12.2019, statements of the parties (i.e. the petitioners and respondent No.2) were recorded by the learned Judicial Magistrate 1st Class, Kalka and report of the same was submitted on 06.02.2020 as per which the complainant / respondent No.2 stated that she had filed a complaint against the accused / petitioners but she had compromised the matter with the accused subject to the terms and conditions settled in the compromise without any pressure or undue influence.

Likewise, statements of the accused / petitioners were recorded of their having entered into the compromise with the complainant / respondent No.2 out of their own free will and without any pressure or coercion.

[5] Statement of the Investigating Officer ASI Pardeep Kumar was also recorded that out of the accused, petitioner No.2 i.e. Nishant Kapoor had not been arrested whereas remaining accused i.e. Bharat Bhushan Kapoor, Madhu Kapoor, Monika Gulati and Tarun Gulati (i.e. petitioner Nos.1, 3 to 5 herein) were on anticipatory bail granted by the Court of the

remaining accused had been presented in the Court, however, as per the record, none of the accused persons had been declared a proclaimed offender, that there was only one complainant / victim in the case and on the aforementioned basis, the learned Judicial Magistrate 1st Class, Kalka submitted report that on going through the statements made by the complainant / respondent No.2 and the accused, he was satisfied that compromise was entered into by the parties voluntarily, out of their own free will and without any threat or coercion from any side.

[6] Keeping in view that the matter has been compromised between the parties vide compromise, Annexure P/2 dated 18.06.2019 subject to the terms and conditions agreed therein and the parties have decided to get the aforementioned FIR and all consequential proceedings emanating therefrom quashed besides, learned State Counsel as well as learned counsel for the complainant / respondent No.2 have also supported the prayer for quashing of the aforementioned FIR and all consequential proceedings emanating therefrom on the basis of compromise, Annexure P-2 dated 18.06.2019 and consequential complete settlement of the dispute between the parties amicably with the intervention of respectable persons etc, there is no impediment to this Court exercising its inherent powers under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom as no useful purpose would be served by prolonging the litigation.

[7] Learned Counsel have also referred to the decision of Hon'ble the Supreme Court in ***Gian Singh vs. State of Punjab and another, 2012 (4) RCR (Crl.) 543*** as well as Hon'ble the 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 decision in ***Gian Singh's case (supra)*** is reproduced 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 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.”

Likewise, relevant extract of the decision in ***Kulwinder Singh’s case (Supra)*** is reproduced as under:-

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.

[8] In the circumstances, in view of compromise Annexure P-2 dated 18.06.2019, statements of parties recorded by the learned Judicial Magistrate 1st Class, Kalka as well as report submitted by the learned Judicial Officer, the possibility of conviction of the petitioners in the case is remote and bleak, consequently, continuation of the criminal case against the accused / petitioners despite full and complete settlement between the parties

would serve no purpose. Moreover, the parties can start life afresh.

Consequentially, in order to secure the ends of justice, it would be appropriate to put an end to the criminal case.

[9] Accordingly, in the light of position noted above, FIR No.68 dated 22.05.2019, registered under Sections 323 / 406 / 506 / 34 IPC at Police Station Kalka District Panchkula and all consequential proceedings emanating therefrom, are quashed qua the petitioners. Parties are directed to adhere to the terms and conditions of compromise as contained in Annexure P-2 dated 18.06.2019. Failure to adhere to the same would not only render the defaulting party liable for proceedings 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.

[10] Petition allowed in the aforementioned terms.

May 27, 2021

'Amit'

Whether speaking/ reasoned

Whether reportable

:

:

Yes/No

Yes/No

(B.S. Walia)

Judge