

208

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

CRM-M-37214-2020

Date of Decision: 11.02.2021

VARINDER KUMAR AND OTHERS

PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Arora, Advocate for the petitioners.
Ms. Samina Dhir, DAG, Punjab.
Mr. G.S. Rawat, Advocate for respondent No.2.

AVNEESH JHINGAN, J (Oral):

This petition is for quashing of FIR No. 199 dated 3.11.2019 registered under Sections 406, 498-A IPC at Police Station Bhogpur, District Jalandhar Rural and consequential proceedings arising out therefrom. The quashing is sought on the basis of compromise.

The FIR was a result of a matrimonial dispute. During the pendency of the dispute the parties have compromised the matter and filed the present petition for quashing.

Following order was passed by this Court on 11th November, 2020:-

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

Notice of motion.

Ms. Samina Dhir, DAG, Punjab and Mr. G.S. Rawat, Advocate appearing on advance notice accept the same on behalf of respondents No. 1 and 2, respectively.

Learned counsel for the petitioner and respondent No.2 are ad idem that the matter has been compromised.

Learned counsel for respondent No.2 is not opposing the quashing of FIR.

Let the parties appear before Illaqa Magistrate/trial Court on 27.1.2021 for recording their statements with regard to the compromise/settlement.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in FIR;*
- 2. Whether accused is proclaimed offender; and*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

List on 11.2.2021.”

The report dated 29th January, 2021 is received stating that the compromise is without any threat or undue influence.

“ The Supreme Court in ***Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another, 2013 (2) SCC (Cri) 302*** held:-

“10. As stated earlier, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498A and 406 of IPC, the parties, in the instant case, arrived at a mutual settlement and the complainant also has sworn an affidavit supporting the stand of the appellants.

That was the position before the trial Court as well as before

the High Court in a petition filed under Section 482 of the Code. A perusal of the impugned order of the High Court shows that because the mutual settlement arrived at between the parties relate to non-compoundable offence, the court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482. A perusal of the petition before the High Court shows that the application filed by the appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings.

11. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In B.S. Joshi (supra), this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

12. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing

of FIR, complaint or the subsequent criminal proceedings.”

The root cause of the dispute was a matrimonial dispute and parties have decided to part their ways by filing a divorce petition under Section 13-B of Hindu Marriage Act, 1955. In such circumstances the continuation with the trial would only undo the efforts of the parties to proceed further in their respective lives.

To meet the ends of justice, the FIR mentioned above and all consequential proceedings are quashed.

[AVNEESH JHINGAN]
JUDGE

11th February, 2021
sham

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |