

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(221)

CRM-M-44597-2021

Date of Decision:- 20.12.2021

Sukhjinder Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab for respondent No.1.

Mr. Ajay Kumar, Advocate for

Mr. Amandeep Chhabra, Advocate for respondent No.2.

...

SUVIR SEHGAL, J. (Oral)

The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.77 dated 26.12.2016 under Sections 406 and 498-A of the Indian Penal Code, 1860, registered at Police Station Women, Amristar, Annexure P-1, on the basis of compromise dated 03.08.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that though the FIR, Annexure P-1, was registered at the behest of the wife-respondent No.2 of the petitioner and a compromise, Annexure P-2, was arrived at between the parties, wherein it was inter-alia agreed that a petition under Section 13-B of the Hindu Marriage Act, 1955 will be filed seeking divorce by mutual consent, but during the pendency of the petition for divorce by mutual consent, the parties have decided to live together and the petition has been

withdrawn on 01.09.2021. He submits that in pursuance to the order passed by this Court, the parties have recorded their statements in support of the compromise. It is his submission that the petitioner has not been declared as a Proclaimed Offender.

As per the instructions received from ASI, Kashmir Singh, State counsel submits that the challan has been presented and charge has been framed, but no prosecution witness has been examined.

Counsel representing the complainant-respondent No.2 has admitted the factum of compromise as well as the statement of the counsel for the petitioner.

Counsel for the parties have been heard.

Vide order dated 27.10.2021, this Court directed the parties to appear before the trial Court/Illaq Magistrate and get their statements recorded regarding the compromise and a report was called for from the Court regarding the genuineness of the compromise as also as to whether P.O. proceedings are pending against any of the parties.

Report has been received in compliance of the said order and the relevant extract thereof is as under:-

“On the basis of the statements suffered by the parties in the Court, it appears that the compromise between complainant and accused-Sukjinder Singh is genuine, voluntary without any threat or coercion. Accused has not been declared as proclaimed offender, nor any PO proceedings are pending against any of the party. The parties were identified by the learned counsel for the parties.”

Supreme Court in *Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543* has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure, 1973 to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. A Full Bench of this Court in case *Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052* and Division Bench of this Court in case *Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102* has held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving non-compoundable offences.

In *Ramgopal and another Versus The State of Madhya Pradesh 2021 SCC Online 834*, Supreme Court has held that limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.

As the FIR is an outcome of a matrimonial dispute between the parties, which has been settled and the parties are residing together under one roof, the quashing of the criminal proceedings will enable them to lead a peaceful and harmonious life. Even the counsel for the private parties submits that continuation of the criminal proceedings will not serve any purpose.

Accordingly, the petition is allowed. FIR No.77 dated 26.12.2016 under Sections 406 and 498-A of the Indian Penal Code, 1860, registered at Police Station Women, Amristar, is quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

20.12.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No