

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(222)

CRM-M-46541-2021

Date of Decision: 17.12.2021

Rohit Mahajan

--Petitioner

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Vikram Chaudhari, Senior Advocate with
Mr. Keshavam Chaudhari, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Vipin Mahajan, Advocate
for respondent No.2.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Instant petition has been filed under Section 482 Cr.P.C. for quashing the proclamation proceedings initiated against the petitioner in view of his personal appearance before the Court at Amritsar in case FIR No.430 dated 16.12.2005, registered under Sections 406, 498-A IPC, at Police Station Sadar, Amritsar; for quashing/set aside the orders dated 30.09.2021 passed by the learned JMIC, Amritsar and 19.10.2021 passed by the learned Additional Sessions Judge, Amritsar. In view of the fact that the matter was compromised between the parties, so vide order dated 01.12.2021, the prayer of the petitioner for adding additional prayer for quashing of FIR No.430 dated 16.12.2005, registered under Sections 406, 498-A IPC, at Police

allowed.

FIR in question was got registered by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from compromise/settlement (Annexure A-2). On the basis of the compromise/settlement, the petitioner is invoking the inherent power of this Court by praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

This Court vide order dated 09.12.2021. directed the parties to appear before the Illaqa/Duty Magistrate for recording their statements, as contended before the Court, and the Illaqa/Duty Magistrate was also directed to send its report.

In pursuance of the same, learned Judicial Magistrate Ist Class, Amritsar sent her report dated 16.12.2021 to this Court. With the report she has also annexed the photocopies of the statements of complainant-Pooja Gupta and accused/petitioner namely, Rohit Mahajan recorded on 13.12.2021 and ASI Mukandbir Singh recorded on 15.12.2021. On the basis of the statements, learned Judicial Magistrate Ist Class, Amritsar has concluded in the report that the parties have entered into a compromise voluntarily and without any threat or coercion. It has been reported that the case was got registered against two accused namely, Rohit Mahajan (petitioner) and accused Sudarshana Mahajan, who has been acquitted by JMIC, Amritsar vide judgment dated 19.11.2017. Further, the accused-Rohit Mahajan was declared proclaimed offender in this case vide order dated 13.01.2007. He is

not involved in any other case.

It has been contended by learned counsel for the petitioner and not controverted by learned counsel for the complainant that the statements of the parties in a petition under Section 13-B of the Hindu Marriage Act have already been recorded. It has been submitted that this Court vide order dated 16.09.2021 passed in CRM-M-6139 of 2021 directed the petitioner to appear before the concerned Court within three days from the date of his landing and move an application which would be decided by the concerned Court in accordance with the law. In compliance thereof, petitioner has appeared before the learned Judicial Magistrate Ist Class, Amritsar and has also moved an application within specified time, who disposed off his application, being dismissed. He has relied upon the judgment titled as "Smt. Deeksha Puri Vs. State of Haryana, (2012 SCC OnLine P&H 20122)" in which following observation was made:-

"54. It is also clarified that the moment a proclaimed offender is arrested or he appears at the place and time required by the Court or surrenders before the Court or authority issuing warrants for proclamation, as the case may be, the order of declaration of proclaimed offender would cease to be operative.

I have heard learned counsel for the parties, perused the record and the report sent by learned Judicial Magistrate Ist Class, District Amritsar.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may 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. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for

compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466***; ***B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675*** followed by this Court in Full Bench case of ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052*** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in *Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303* further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335*. Para 61 of the judgment reads as under:-

“61. 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 pre-dominantly civil flavour stand on a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Applying the law settled by Hon'ble Supreme Court in plethora

of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioner by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, the FIR No.430 dated 16.12.2005, registered under Sections 406, 498-A IPC, at Police Station Sadar, Amritsar along with all subsequent proceedings arising therefrom including order dated 30.09.2021 passed by learned Judicial Magistrate Ist Class, Amritsar and order dated 19.10.2021 passed by learned Additional Sessions Judge, Amritsar are quashed qua the petitioner on the basis of compromise. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

17.12.2021
m.sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No