IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(267) **CRM-M-39368-2019(O&M)**
Date of Decision: 17.08.2021

Hardeep Singh --Petitioner

Versus

State of Punjab & another --Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Premjit Singh Dhaliwal, Advocate
for the petitioner.

Mr. S.S. Sandhu, A.A.G., Punjab.

Mr. S.S. Swaich, Advocate for respondent no.2.

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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. praying for quashing of FIR No.59, dated 5.7.2012, under Sections 406, 498-A IPC, registered at Police Station, Amloh, District Fatehgarh Sahib and all the subsequent proceedings arising therefrom on the basis of Compromise, dated 18.12.2018 (Annexure P-3).

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 Deed, annexed as Annexure P-3. On the basis of the compromise, the petitioner is 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

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the subsequent proceedings arising therefrom may be quashed in the interest of justice.

This Court vide orders dated 28.2.2020 directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements, as contended before the Court, and the Magistrate/trial Court was also directed to send its report. However, the parties could not appear before the court on the date fixed and hence they were again given another opportunity to appear on 29.7.2021 for recording their statements.

In pursuance of the same, learned Judicial Magistrate Ist Class, Amloh sent his report dated 3.8.2021 to this Court. With the report he has also annexed the original statements of complainant Ramanpreet Kaur and statements of petitioner/accused Hardeep Singh and ASI Jaswinder Singh recorded on 29.7.2021. On the basis of the statements, learned JMIC, Amloh has concluded in the report that it appears that the parties have entered into a compromise voluntarily and that there is no other accused except the petitioner and he was not declared Proclaimed Offender in the present case.

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

The offence involved in the FIR is purely a matrimonial dispute and the petitioners have approached this Court by filing a petition under Section 482 Cr.P.C. for exercising the inherent powers of this Court in favour of the prayer made by the accused.

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

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compounding of the offences under the Indian Penal Code.

Admittedly, as per statutory provisions, the offences in FIR are non-compoundable offence and thus, Section 482 Cr.P.C. and Section 320 Cr.P.C. are of utmost importance for decision of the case. Such an issue was appreciated by Hon'ble Supreme Court in **B.S.Joshi and others** vs **State of Haryana and another (2003) 4 Supreme Court Cases 675**. Their Lordships appreciated the issue involved in a very exhaustive manner and laid down as under:-

> *"**8**. It is, thus, clear that Madhu Limaye's [(1977) 4 SCC 551]case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extra ordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.*
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> ***10**. In State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699], considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these*

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observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? Answer clearly has to be in the "negative". It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

***14**. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of*

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women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code."

The law laid down by Hon'ble Supreme Court in **B.S.Joshi and others** (supra) was further followed by this Court in Full Bench of **Kulwinder Singh and others** vs **State of Punjab and another, 2007(3) RCR 1052.** Para 29 of the same reads thus:

"29. 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."

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

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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-dominatingly 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

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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 petitioners 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, FIR No.59, dated 5.7.2012, under Sections 406, 498-A IPC, registered at Police Station, Amloh, District Fatehgarh Sahib and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-3) qua the petitioner, is hereby quashed. 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.

(RAJESH BHARDWAJ)
JUDGE

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

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