

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(284)

CRM-M-3846-2022
Date of Decision: 17.10.2022

Sukhdev Singh & others

--Petitioners

Versus

State of Haryana & another

--Respondents

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

Present:- Mr. Vikas Bishnoi, Advocate for the petitioners.

Mr. Kirpal Singh, A.A.G., Haryana.

None for respondent no.2.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.140 dated 26.11.2019 registered under sections 323, 406, 498-A, 506 and 34 IPC at Police Station, Women Police Station, Jind, District Jind along with all the subsequent proceedings arising therefrom on the basis of compromise/affidavit dated 11.10.2021 (Annexure P-2) and decree of divorce dated 13.10.2021 (Annexure P-3).

This Court vide orders dated 10.2.2022 had issued notice of motion for 19.4.2022, however, no one appeared on behalf of respondent no.2 despite service. Even today the position is same. Hence, she is proceeded ex-parte.

Learned counsel for the petitioners submits that after registration of the FIR in question the matter was amicably settled between the parties and in view of the same a petition under section 13-B of Hindu Marriage Act was filed. It is submitted that a total amount of Rs.12 lakh

was agreed to be paid as full and final payment to the respondent no.2-wife.

It is further submitted that at the time of recording first motion statement a sum of Rs.6 lakh was paid and rest of the amount was to be paid at the time of recording second motion statement. Counsel has drawn attention of this court to the decree of divorce dated 13.10.2021 (Annexure P-3), passed by the learned Family Court, wherein this fact finds mentioned and as per the settlement arrived at the respondent wife was legally bound to record her statement before the Magistrate concerned for quashing of the FIR in question, however, after having been granted the decree of divorce and accepting full and final payment of Rs.12 lakh the respondent wife is not coming forward for quashing of the FIR as agreed by the parties.

Learned counsel for the petitioners has relied upon the cases of ***Mohd. Shamim V. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697 and Ruchi Agarwal V. Amit Kumar Aggarwal, 2004(4) R.C.R (Criminal) 949*** to substantiate his arguments.

I have heard learned counsel for the petitioners.

The Hon'ble Supreme Court in the case of ***Ruchi Agarwal's (supra)*** has held that in such like situation where the intention of the wife is to harass the petitioner-husband, continuation of criminal proceedings against the petitioner would be an abuse of the process of the Court especially when the petitioner-husband has performed his part of settlement and the respondent-wife is not coming forward to make statement in support of the compromise. Under these circumstances, the validity of the compromise cannot be negated.

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 a 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 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.140 dated 26.11.2019 registered under sections 323, 406, 498-A, 506 and 34 IPC at Police Station, Women Police Station, Jind, District Jind and all the subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of the 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.

(RAJESH BHARDWAJ)
JUDGE

17.10.2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No