

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.114/231

CRM-334502022 in/and

CRM-M-4344-2021

Date of Decision: September 09, 2022

Gursharan Bhatia and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Inderpreet Singh, Advocate for the petitioners.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Jaiteshwar Singh Advocate for respondent Nos.2 to 6.

AMAN CHAUDHARY, J.(Oral)

CRM-33450-2022

This is an application for placing on record amended petition.

Learned counsel for the petitioner submits that the necessity to file the amended petition arose on account of the fact that in the main petition inadvertently did not mention Section 325 IPC, which has so been mentioned in the prayer clause of this case.

For the reasons mentioned in the application, the same is allowed and the amended memo of parties is taken on record.

Main Case

Present petition has been filed for quashing of DDR No.48, dated 10.08.2018 in FIR No.206, dated 08.08.2018, under Sections 323, 325, 341 and 427 of the IPC, registered at Police Station Division 8

(Commissionerate), District Jalandhar, and all other consequential proceedings arising therefrom on the basis of the compromise dated 11.12.2020 (Annexure P-3).

On 05.03.2021, this Court had passed the following order:-

“The Court has been convened through video conferencing due to Covid-19 Pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of DDR No. 48 dated 10.08.2018 (Annexure P-2) in FIR No.206 dated 08.08.2018 under Sections 323, 341 and 427 of the Indian Penal Code, 1860, registered at Police Station Division 8 (Commissionerate), District Jalandhar and all consequent proceedings arising therefrom, on the basis of compromise dated 11.12.2020 (Annexure P-3), arrived at between the parties.

Counsel for the petitioners submits that the FIR (Annexure P-2) has been registered as there is a marital discord between petitioner No.1 and his wife, respondent No.3. He submits that a petition for divorce by mutual consent between the parties has already been filed and FIR No. 75 dated 20.12.2018 under Sections 406 and 498-A IPC, lodged at Police Station Women (Commissionerate) Jalandhar by the wife, respondent No.3 against the husband, petitioner No.1 has been compromised. Petition for quashing of said FIR is pending for 16.03.2021. He submits that the present FIR is an outcome of the said dispute, which has been settled by virtue of compromise (Annexure P-3). Counsel for the petitioners has referred to the para 7 of the petition and submitted that none of the accused named in the FIR have been declared as proclaimed offenders by any court of law. Notice of motion.

Upon instructions from ASI Gurmail Singh, Mr. Randhir

Singh Thind, DAG, Punjab submits that the challan has been presented and the charges have been framed and the trial is fixed for 19.03.2021 for recording of the statements of prosecution witnesses.

Mr. Jaiteshwar Singh, Advocate accepts notice on behalf of respondents No.2 to 6. He has admitted the factum of compromise effected between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 19.03.2021 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties;*
- 5. Whether any other criminal case is pending against the accused.*

Report of the Illaqa Magistrate/trial Court be awaited for 15.07.2021. ”

Pursuant to the aforesaid order, report dated 31.05.2021 has been received from the Judicial Magistrate 1st Class, Jalandhar. The relevant paragraph of the said report is as under:-

“ --- As per the record there were four accused were named, namely Nitish, Gursharan, Vinod and Sunita Bhatia and these were implicated in a separate Rapat registered on the

statement of Yogesh complainant and no person was declared as proclaimed offender in this case and complainant in this case is Yogesh and the injured persons are Yogesh Bhatia, Hemant and Dimple. He further stated a case was registered on the statement of Dimple under Section 406, 498A IPC against Gursharan Bhatia, Vinod Bhatia, Nitish Bhatia and Sunit Bhatia vide FIR No.75 dated 20.12.2018, Police Station Women Cell, Jalandhar. ”

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are four accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that none of the accused is declared as proclaimed offender.

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner(s) and the complainant(s). Since the matter has been settled and the parties have decided to live in peace, this Court is of the view that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052,***

it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of ***“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543***, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. 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. XXX---XXX”

In view of the above, the petition is allowed and DDR No.48, dated 10.08.2018 in FIR No.206, dated 08.08.2018, under Sections 323, 325, 341 and 427 of the IPC, registered at Police Station Division 8 (Commissionerate), District Jalandhar, and all other

consequential proceedings arising therefrom, are quashed qua the petitioners.

September 09, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No