

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.231-a

CRM-M-4346-2021

Date of Decision: September 09, 2022

Yogesh Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Inderpreet Singh, Advocate for respondent Nos.2 to 5.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.206, dated 08.08.2018, under Sections 323, 324, 148 and 149 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 FIR No.206 dated 08.08.2018 (Annexure P-1) under Sections 323, 324, 148 and 149 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-1) has been registered as there is a marital discord between Dimple (daughter of petitioner No.2 and 3 and sister of petitioners No.1 and 4) and her husband, respondent No.3. He submits that a petition for divorce by mutual consent between the parties has already been filed and the FIR No.75 dated 20.12.2018 under Sections 406 and 498-A lodged at Police Station (Commissionerate), Jalandhar by Dimple against the respondent No.3 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. Inderpreet Singh, Advocate accepts notice on behalf of respondents No.2 to 5. 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 statement of ASI Gurmail Singh, belt No.1662, PS Div. No.8, Jalandhar that in this case six persons were implicated out of which four were named as Satpal Girhotra, Santosh Kumari, Yogesh and Hemand and two unknown persons were also implicated but no one from unknown persons were also implicated but no one from unknown person has been arrested. He further stated no one was declared as proclaimed person in this case. He further stated that the FIR was registered on the statement of Nitish Bhatia and the injured persons in this case are Nitish Bhatia and Vinod Kumar Bhatia and no criminal case is pending against the accused named in this case. ”

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 six 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 and no criminal case is pending against them.

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 FIR No.206, dated 08.08.2018, under Sections 323, 324, 148 and 149 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