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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-4250-2022

Date of decision : 09.12.2022

Anil Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashwani Bakshi, Advocate for the petitioner.

Mr. Vishal Malik, AAG, Haryana.

Mr. Manoj Makkar, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.130 dated 10.08.2017 registered under Sections 313/498-A/506/34 of the Indian Penal Code, 1860 (Sections 313 and 34 of IPC have been deleted and Section 406 of IPC has been added later on) at Women Police Station, Rohtak and all the subsequent proceedings arising therefrom on the basis of compromise.

On 09.05.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Mr. Manoj Makkar, Advocate has put in appearance on behalf of respondent No.2 and filed his power of attorney, which is taken on record.

Service is complete.

Counsel for the petitioner submits that second motion in the petition seeking divorce by mutual consent is to be recorded during this week.

The parties are directed to appear before the Area Magistrate/Trial Court on 27.07.2022 or on any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing 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 Area Magistrate/Trial Court be awaited for 10.08.2022.

Judgment and decree of divorce, if passed, be placed on the record before the next date of hearing.

Sd/-(SUVIR SEHGAL)

09.05.2022

JUDGE”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Rohtak. The relevant portion of the said report is reproduced hereinbelow:-

“1. Five persons were arraigned in the FIR but during investigation, named accused Kanwar Singh (father-in- law),

Raj Bala (mother-in-law), Sunita and Sonu (sisters- in-law) were declared innocent. Final police report was filed against only one accused i.e. husband namely Anil Kumar. He is neither an absconder nor he has been declared PO in any case.

2. There is only one victim/aggrieved and she herself is the complainant. Her name is Pooja Kumari. She has made statement before Court in support of the compromise.

3. The case was fixed for prosecution evidence. Only chief examination of complainant has been recorded so far.

4. The compromise is genuine, voluntary and out of free will of the parties.

5. No other criminal case is pending against the accused.”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

A perusal of above report would show that although, initially, there were five accused persons but the challan has only been presented against the present petitioner.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions has stated that the said fact is correct. It is further submitted that decree of divorce dated 22.08.2022 has also been granted to the petitioner and respondent No.2 in a petition filed under Section 13-B of the Hindu Marriage Act, 1955.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels 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**”, reported as **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 opinion that the same is 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**”, reported as **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 what has been discussed hereinabove, the petition is allowed and FIR No.130 dated 10.08.2017 registered under Sections 313/498-A/506/34 of the Indian Penal Code, 1860 (Sections 313 and 34 of IPC have been deleted and Section 406 of IPC has been added later on) at Women Police Station, Rohtak and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

09.12.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**