

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

1. CRM-M-6854-2022

Sandeep Sandhi and anotherPetitioners

Versus

State of Punjab and another Respondents

2. CRR-213-2021

Sandeep Sandhi and anotherPetitioners

Versus

State of Punjab and anotherRespondents

Date of decision : 24.05.2022

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. M.S. Saini, Advocate and
Mr. Bhanu Pratap Singh, Advocate
for the petitioners.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Vishal Sharma, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J.

By this common order, I intend to dispose of abovesaid petition bearing No.CRM-M-6854 of 2022 filed for quashing of complaint No.COMI/331/2013 dated 18.10.2011 and CRR No.213 of 2021 filed against the conviction and sentence awarded to the petitioners by JMIC, Hoshiarpur and affirmed by Sessions Judge, Hoshiarpur as both the abovesaid cases have arisen out of the same complaint numbered above.

Petitioners have approached this Court by way of filing the present petition i.e. CRM-M-6854 of 2022 for quashing of the complaint case No.COMI/331/2013 dated 18.10.2011, under Sections 498-A, 323,

504, 506, 34 of IPC along with all consequential proceedings arising therefrom including conviction and sentence by Judicial Magistrate Ist Class, Hoshiarpur and affirmed by Sessions Judge, Hoshiarpur, on the basis of compromise dated 20.04.2021 whereas, prayer in CRR-213-2021 filed by petitioners impugning the order dated 01.02.2021 passed by learned Sessions Judge, Hoshiarpur whereby the conviction and the sentence of the petitioners as awarded by the Judicial Magistrate Ist Class, Hoshiarpur vide his order dated 14.07.2017 was upheld whereby the petitioners namely, Sandeep Sandhi and Harbhajan Kaur were convicted and sentenced as under:-

Under Section 498-A IPC read with Section 34 IPC	R.I. for a period of one year and to pay a fine of Rs.500/-, in default S.I. for ten days.
Under Section 323 read with Section 34 IPC	R.I. for a period of six months and to pay a fine of Rs.300/-, in default of payment of fine, the convict shall further undergo S.I. for seven days.
Under Section 506 read with Section 34 IPC	R.I. for a period of six months and to pay a fine of Rs.200/-, in default of payment of fine the convict shall further undergo S.I. for seven days.

As per the facts of the case, the complainant i.e respondent No.2 was married with petitioner No.1-Sandeep Sandhi on 10.11.2010 at Suraj Palace situated at Village Kailon, Hoshiarpur. The marriage was performed with great pomp and show and the parents of the complainant gave sufficient dowry in her marriage. However, soon after the marriage, a matrimonial discord took place between the petitioner No.1 and the complainant. The complainant used to be taunted and humiliated and insulted by the petitioners. She was subjected to cruelty and used to be abused in a filthy language by her in-laws. They demanded motorcycle and cash of Rs.1,00,000/-. However, as father of the complainant was not in a position to meet the unreasonable demand of the petitioners, harassment and

cruelty to the complainant kept on increasing day-by-day. On 6th May, 2011, the relatives of the complainant namely, Dhian Chand, his wife and her mother came to see her but the accused humiliated them also. The petitioners manhandled her and gave slaps on her face and fist blows in her abdomen. Her mother and relatives took her to Village Baghpur. She was medically treated by the doctors of Civil Hospital Hoshiarpur. Hence, the complainant had no option then to leave the matrimonial home and she started residing with her parents since 6th May, 2011. As she had no means to maintain herself, she filed application under Section 125 Cr.P.C. for grant of maintenance. The father of the complainant made strenuous efforts for reconciliation but to no effect. A son was born to complainant in Civil Hospital, Hoshiarpur on 26th August, 2011 but no one came to see the newly born child. Having no other option, the complainant filed a complaint under Sections 498-A, 323, 504, 506/34 of IPC against the accused-petitioners. After presentation of challan, both sides led their respective evidence. A thorough trial was conducted and on the conclusion of the same, learned trial Court i.e. Judicial Magistrate Ist Class, Hoshiarpur found the charges to have been proved beyond reasonable doubt and thus, convicted and sentenced the petitioners as mentioned above vide order dated 14th July, 2017. Aggrieved by the same, the petitioners preferred an appeal before the learned Sessions Judge, Hoshiarpur impugning the order dated 14.07.2017 passed by the Judicial Magistrate Ist Class, Hoshiarpur. Learned Sessions Judge re-appreciated the evidence on record, heard the arguments from both the sides and found no merit in the appeal and thus, upheld the order of conviction and sentence passed by the learned Judicial Magistrate Ist Class and dismissed the appeal vide order dated 1st February, 2021. Aggrieved by

both the impugned orders, the petitioners approached this Court by way of filing CRR-213-2021 praying for setting aside of both impugned orders.

Learned counsel for the petitioners has submitted that with the intervention of respectables, finally the parties have arrived at settlement and they have resolved their inter se dispute, which is apparent from compromise placed on record as Annexure P-4. On the basis of the compromise, the petitioners are invoking the inherent power of this Court by 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 the subsequent proceedings arising therefrom including conviction and sentence awarded by both the Courts below may be quashed in the interest of justice.

Learned counsel for the petitioners has relied upon the Full Bench Judgment of this Court titled as Kulwinder Singh and others vs. State of Punjab and another, 2007 (3) RCR 1052; Ramgopal and another vs. State of Madhya Pradesh, 2021(4) RCR (Criminal) 322; and Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102.

Learned counsel for respondent No.2 has also supported the contentions raised by learned counsel for the petitioners. However, learned State counsel has opposed the prayer made by learned counsel for the petitioners and has stated that the petitioners are already convicted and sentenced by the Court of JMIC and said order has been affirmed by the Appellate Court and as such the present cases should be decided on merits.

I have heard counsel for the parties and perused the records.

A perusal of revision file shows that in FAO No.2246 of 2018 pending between the parties, the matter was referred to the Mediation and

Conciliation Centre of this Court for exploring the possibility of amicable settlement and taking into consideration this fact, the Court passed order for release of the petitioners by suspending their sentence in the said revision. Thereafter, the parties were successful in settling the dispute amicably before the Mediation and Conciliation Centre. Resultantly, the marriage was dissolved by way of decree of divorce on 04.10.2017. They filed petition i.e. CRM-M-6854-2022 for quashing the complaint dated 18.10.2011, under Sections 498-A, 323, 504, 506, 34 of IPC along with consequential proceedings arising therefrom on the basis of compromise dated 20.04.2021 i.e. Conviction and sentence awarded by both the Courts below.

This Court vide order dated 18.02.2022 passed in CRM-M-6854-2022 directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements, as contended before the Court, and the Illaqa Magistrate/trial Court was also directed to send its report.

In pursuance to the same, learned Judicial Magistrate Ist Class, Hoshiarpur sent its report dated 30.03.2022 to this Court. With the report learned Judicial Magistrate Ist Class, Hoshiarpur has also annexed the original statement of complainant-Neeraj; joint statement of accused/petitioners namely, Sandeep Sandhi and Harbhajan Kaur recorded on 28.03.2022. On the basis of the statements, learned Judicial Magistrate Ist Class, Hoshiarpur has concluded in the report that the compromise entered between the parties is genuine, voluntarily and out of their free will. It is also mentioned in the report that initially accused namely Sandip Sandhi, Harbhajan Kaur, Seema Sandhi and Sanjiv Sandhi were arrayed in the complaint case however, accused namely Sandip Sandhi and Harbhajan Kaur were summoned to face trial.

As the matter is dealt and decided on the basis of compromise so this court does not inclined to discuss the merits of the case.

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.

Hon'ble Supreme Court in **Ramgopal V. State of Madhya Pradesh** (supra) has held as under:-

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C., 1973 would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., 1973 may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against

*perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. v. State of Punjab & Ors., (2014) 6 SCC 466** and **Laxmi Narayan (Supra)**.*

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19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C., 1973 Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

Hon'ble Division Bench of this Court in Sube Singh's case (supra) observed as under:-

“20.It has thus been ascertained to our satisfaction and stands established that the compromise arrived at between the parties is genuine, willful and bona fide. It is also proved that the petitioners and respondent No.2 are living under the same roof. In fact, to remove any sort of doubts regarding the genuineness of the compromise, respondent No.2 appeared before us along with her daughter and made a statement on oath on 3.4.2013 in support of the compromise. She also stated that the parties are living under the one roof and she is being well looked after by her sons, namely, the petitioners.

21. In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including

daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Nonacceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.

22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.3.2009 passed in Criminal Case No.425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No.2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No.2 is dismissed qua the petitioners on the basis of above-stated compromise. Resultantly, the appeal preferred by the petitioners against the above-mentioned order dated 16.3.2009 would be rendered infructuous and shall be so declared by the first Appellate Court at Hisar.”

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 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 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.”

In view of the judgment by the Hon’ble Supreme Court titled as ***Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and Ors., (1980) 1 SCC 63, Hon’ble Krishna Iyer, J.*** aptly summoned up the essence of compromise in the following words: *"The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."*, this Court finds that the plea taken by the petitioners qualifies for its acceptance on the anvil of the settled law.

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 petitioner by quashing the complaint 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, complaint case No.COMI/331/2013 dated 18.10.2011, under Sections 498-A, 323, 504, 506, 34 of IPC along with consequential proceedings arising therefrom including order dated 18.10.2011 passed by JMIC, Hoshiarpur awarding conviction and sentence as stated above to the petitioners and order dated 14.07.2017 passed by Sessions Judge, Hoshiarpur affirming the said conviction and sentence are quashed qua the petitioners on the basis of compromise in CRM-M-6854-2022. 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 No.CRM-M-6854-2022 stands allowed.

In view of the fact that the abovesaid complaint with consequential proceedings has been quashed on the basis of compromise, the connected revision petition i.e. CRR-213-2021 has become infructuous and the same is dismissed as such. CRM-3007 of 2022 stands disposed of accordingly.

(RAJESH BHARDWAJ)
JUDGE

24.05.2022

m.sharma

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No