

CRM-M-8109-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(248)

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Date of Decision:-27.05.2022.

Suresh Kumar and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Sonak, Advocate for
Mr. Rahul Makkar, Advocate for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Lalit Kumar, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.134 dated 21.07.2018 registered under Sections 323, 34, 406, 498-A and 506 IPC at Women Police Station Jind, District Jind, on the basis of compromise dated 02.02.2022 (Annexure P-2).

On 24.02.2022, the following order was passed:-

“Through instant petition, the petitioners are seeking to quash the FIR No. 134 dated 21.07.2018 under Sections 323/34/406/498-A and 506 IPC registered at Women Police Station Jind on the basis of compromise.

Learned counsel for the petitioners contends that the matrimonial dispute has been amicably settled between the

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parties in terms of compromise dated 02.02.2022 contained at Annexure P-2. Petitioner No.1 and respondent No.2 have resumed cohabitation and are happily residing together.

Notice of motion.

Mr. Zorawar Singh Chauhan, Deputy Advocate General, Haryana, accepts notice on behalf of respondent No.1. Mr. Lalit Kumar, Advocate, has appeared on behalf of respondent No.2, filed his vakalatnama and affirmed the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 12.04.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused in FIR;*
- 2. Whether any accused is proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many*

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victims/complainants are there in the FIR.

To await the report, list again on 27.05.2022.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Jind dated 16.04.2022 has been received, which is taken on record.

As per the report, the trial Court has recorded as follows:-

“3. As per the respective statements of complainant Suman and accused Suresh Kumar and Bharpai the compromise seems to have been effected voluntarily and further seems to be genuine compromise.

4. Statements of HC Suman No.171 PS Women, Jind also recorded. As per her statement, no criminal case is pending against the accused Suresh and Bharpai. She further stated that in the present case, the police has filed final report against two accused persons namely Suresh Kumar and Bharpai while finding the accused namely Satbir (father-in-law) Amit and Satish (brother-in-law) as innocent and none of the accused has been declared proclaimed offender.”

Mr. Lalit Kumar, Advocate appears for respondent No.2 and admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 498-A of the IPC is non compoundable.

In response thereto, learned counsel for the petitioners relies upon the judgment passed by the Supreme Court in ***Criminal Appeal No.1489 of 2012, titled as 'Ramgopal and another vs. The State of Madhya Pradesh'***.

The relevant portion of which reads as under;-

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“11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, the present petition is allowed. FIR No.134 dated 21.07.2018 registered under Sections 323, 34, 406, 498-A and 506 IPC at Women Police Station Jind, District Jind and all proceedings arising therefrom are hereby quashed.

(PANKAJ JAIN)
JUDGE

May 27, 2022.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No