

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 269

CRM-M-11663-2022

Date of decision : 25.05.2022

Gurbax Singh and another

..... Petitioners

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Yogesh Goel, Advocate, for the petitioners.

Mr.Saurav Khurana, DAG, Punjab.

Mr.Deepak Goyal, Advocate, for respondent No.2.

DEEPAK SIBAL, J. (ORAL)

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek setting aside of their conviction and sentencing by the Judicial Magistrate Ist Class, Ludhiana (for short, the Trial Court) under Sections 498-A, 323, 324, 506 read with Section 34 IPC on the ground that the dispute from which the impugned conviction and sentencing originated stood amicably resolved.

The case of the prosecution emanated from a complaint filed by Sukhwinder Kaur (respondent No.2) as per which her husband-Bhupinderpal Singh, her father-in-law Gurbax Singh (petitioner No.1), her mother-in-law-Surjit Kaur and sister-in-law Gurpreet Kaur (petitioner No.2) had demanded dowry from her and her parents. Allegations with regard to the aforesaid accused persons having giving beatings and threats to the complainant, of usurping her *istri dhan* and throwing her out of matrimonial home were also made. After registering an FIR under Sections 406, 498-A, 323, 324 and 506 IPC the police investigated the matter and filed a report under Sections 173 Cr.P.C. on the basis whereof the Trial Court framed charges against the aforesaid accused persons. In the trial which ensued the petitioners were held guilty of having committed offences under Sections 498-A, 323, 324, 506 read with Section 34 IPC and through order of the Trial Court dated 03.11.2017 they were sentenced to undergo rigorous imprisonment for three years. The petitioners appealed against the

aforesaid judgment and sentencing order before the Sessions Court at Ludhiana. However, while the appeal was pending the petitioners and the complainant entered into an amicable settlement and on the basis thereof, through the instant petition they seek quashing of their conviction.

Learned State counsel opposes the relief prayed for by the petitioners on the ground that they stand convicted for offences under Sections 498-A, 323, 324, 506 read with Section 34 IPC and therefore deserve no leniency.

Learned counsel for the complainant has no objection to the acceptance of the petitioners' prayer.

In Ramgopal and another vs State of Madhya Pradesh (2021) SCC

Online SC 834 the Supreme Court has held as follows: -

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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 extra-ordinary power under Section 482 Cr.P.C. 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. 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 v. State of Punjab* and *Laxmi Narayan* (Supra).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a ‘settlement’ through duress, threats, social boycotts, bribes or other dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

A reading of the afore extract from the judgment of the Supreme Court in *Ramgopal's case* (supra) leaves no manner of doubt that to serve the ends of justice the Supreme Court has permitted the High Courts to exercise their powers under Section 482 Cr.P.C. to set aside convictions which are for offences which are not heinous or where the offences are pre-dominantly of a private nature.

In the case in hand, the dispute between the petitioners and the complainant arose from a matrimonial dispute and was thus primarily private in nature. The impugned convictions also do not involve any heinous offence.

As directed by this Court on 28.04.2022, a report dated 10.05.2022 by the Judicial Magistrate Ist Class, Ludhiana (for short, the Judicial Magistrate) has been received as per which the parties had got recorded their statements before the Trial Court in terms of the compromise arrived at between them and that in the opinion of the Judicial Magistrate the same was genuine, voluntary and without any coercion.

There is yet another aspect of the matter. Initially there were four accused i.e. the complainant's husband-Bhupinderpal Singh, her mother-in-law Surjit Kaur and the petitioners, who are the complainant's father-in-law Gurbax Singh and her married sister-in-law Gurpreet Kaur. During the course of the trial Bhupinderpal Singh expired. Unfortunately, Surjit Kaur also died during the pendency of the appeal filed by Surjit Kaur and the petitioners against their conviction by the Trial Court. Thus, during the course of the proceedings, petitioner No.1, who is 76 year old, has lost his wife and son and petitioner No.2 has also lost her brother and mother.

In the light of the above discussion and the peculiar facts of the present case as also in line with the law laid down by the Supreme Court in Ramgopal's case (supra), FIR No.53 dated 16.02.2002 registered under Sections 406, 498-A, 307, 324, 323, 506 and 34 IPC at Police Station Haibowal, District Ludhiana as also the orders dated 03.11.2017 passed by the Trial Court convicting and sentencing the petitioners under Sections 498-A, 323, 324, 506 read with Section 34 IPC are set aside.

The present petition is allowed in the above terms.

25.05.2022
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[DEEPAK SIBAL]
JUDGE

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