

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(278)

CRM-M-17620-2021
Date of Decision: 15.11.2022

Jatender Singh and others

--Petitioners

Versus

State of Haryana and another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Saleem Malik, Advocate
for the petitioners.

Mr. Kirpal Singh Thakur, AAG, Haryana.

None for respondent No.2.

RAJESH BHARDWAJ.J (Oral)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.65 dated 14.02.2019, under Sections 323, 406, 498-A, 506 of IPC, registered at Police Station Shahabad, District Kurukshetra along with consequential proceedings arising therefrom.

This Court vide orders dated 28.04.2021 had issued notice of motion for 19.05.2021, however, no one appeared on behalf of respondent no.2 despite service. Even today the position is same.

Learned counsel for the petitioners has submitted that after registration of the present FIR, both the parties have amicably resolved the dispute and arrived at compromise before the Mediation and Conciliation Centre of this Court on 20.11.2019. He submits that in pursuance to the compromise/agreement arrived, both the parties had filed petition under Section 13-B of Hindu Marriage Act and thus, marriage was dissolved by decree of divorce dated 26.03.2021. He further submits that the custody of the child as agreed would be with the mother and the alimony of

Rs.2,00,000/- has also been paid to the respondent-wife. He has submitted that both the sides had agreed that all the inter se litigations would be brought to an end and thus, the present FIR was also agreed to be quashed by way of compromise. He submits that as on date, the petitioner-husband has fulfilled all his obligations in accordance with the terms and conditions of the compromise arrived at between them. However, despite notice from this Court, the respondent-wife has not appeared to give the statement for quashing of the present FIR.

Learned counsel for the petitioners has relied upon the cases of *Mohd. Shamim V. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697* and *Ruchi Agarwal V. Amit Kumar Aggarwal, 2004(4) R.C.R (Criminal) 949* to substantiate his arguments.

Learned State counsel has already placed on record the reply and submitted that the investigation is complete, challan has been presented. He submits that the parties have entered into compromise. He has submitted that the parties made statement before the Investigating Officer on 05.06.2022 that they have entered into compromise.

Heard.

The Hon'ble Supreme Court in the case of *Ruchi Agarwal's (supra)* has held that in such like situation where the intention of the wife is to harass the petitioner-husband, continuation of criminal proceedings against the petitioner would be an abuse of the process of the Court especially when the petitioner-husband has already performed his part of settlement and the respondent-wife is not coming forward to make statement in support of the compromise. Under these circumstances, the validity of the compromise cannot be negated.

After hearing counsel for the parties and perusing the record, it is apparent that the parties have duly settled the dispute amicably and notice was issued to respondent No.2-wife and the service was also effected, however, respondent No.2-wife did not appear and on 20.05.2022, fresh notice was again issued but again the respondent-wife did not appear and on 14.09.2022, the case was adjourned for today to await her appearance. However, respondent again remained absent despite service having been effected upon her.

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.

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-dominantly 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.”

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 petitioners by quashing the FIR 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, FIR No.65 dated 14.02.2019, under Sections 323, 406, 498-A, 506 of IPC, registered at Police Station Shahabad, District Kurukshetra along with consequential proceedings arising therefrom are hereby quashed *qua* the

petitioners on the basis of compromise. 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 stands allowed.

15.11.2022
m.sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No