

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

CRM-M-36254-2020

Date of Decision: 25.4.2022

Parvesh and others

..... Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kamaldeep Singh Redhu, Advocate, for the petitioners.

Mr. Kirpal Singh, AAG, Haryana.

Mr. Daman Dhir, Advocate, 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.91 dated 16.3.2012, registered under Sections 498-A, 323, 506 IPC, Police Station Kharkhoda, District Sonapat and all subsequent proceedings arising therefrom on the basis of Compromise-family Court settlement deed dated 19.9.2019 (Annexure P-3) arrived at between the parties.

Brief facts of the present case are that respondent No.2 i.e the complainant lodged the FIR in question against the petitioners-accused. It was alleged that she was married with Parvesh on 28.5.2006 as per Hindu rites. Her father gave dowry in the marriage more than his capacity. However, her husband and his family members were not satisfied with the same and soon after the marriage, they started harassing her for not bringing sufficient dowry. They raised demand of Rs.2 lacs to purchase the car. Out of the dowry articles, gold ornaments were kept by her mother-in-law. The complainant was being taunted by saying that she belongs to a beggar's family. Her sister-in-law used to instigate her husband. Besides this they left

no stone unturned in causing harassment to her on every petty issues. On her resistance, she used to be beaten. On the instigation of the mother-in-law and sister-in-law her husband tried to kill her. In order to save herself, she confined herself in a room by bolting the door and she dialed No.100 and called the police. On arrival, the police arrested her husband, whereas her mother-in-law and sister-in-law fled away from there. Having no other alternative, respondent-2/complainant filed the present FIR. The investigation commenced and the challan was presented. On the conclusion of the trial, accused Parvesh, Rami Devi and Mannu were convicted under Sections 323, 498-A and 506 read with Section 34 IPC were sentenced and convicted for three years rigorous imprisonment by the trial Court vide its order dated 9.7.2019. The petitioners challenged the same by filing an appeal before the learned Additional Sessions Judge and the same is pending adjudication. During the pendency of the appeal, good sense prevailed and with the intervention of the respectables, the parties entered into a compromise and decided to bury the hatchet. The petitioners approached this Court by way the present petition for quashing of the FIR and consequent proceedings arising therefrom on the basis of the compromise arrived at.

Learned counsel for the petitioners submits that the prosecution of the petitioners is nothing but an abuse of the process of the Court. He submits that though the petitioners have already been convicted by the Court of competent jurisdiction, however, during the pendency of the appeal before the Additional Sessions Judge, Sonapat, the parties have arrived at a compromise and respondent No.2 does not want to prosecute the petitioners any more. It is also submitted that petitioner No.1 and the complainant had

also filed a petition under Section 13-B(2) of HMA, 1955 before the learned Principal Judge, Family Court, Rohini Courts, Delhi and the Court passed a decree for dissolution of marriage by mutual consent on 13.1.2020. Thus, the FIR and the subsequent proceedings alongwith judgment and conviction order dated 9.7.2019 passed by the learned Sub-Divisional Judicial Magistrate, Kharkhoda, Sonapat may kindly be quashed. 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.

This Court vide order dated 6.11.2020 directed the parties to appear before the learned Additional Sessions Judge, Sonapat for recording their statements, as contended before the Court, and the learned Additional Sessions Judge, Sonapat was also directed to send its report.

In pursuance to the same, learned Additional District & Sessions Judge, Sonapat, sent its report dated 6.1.2021 to this Court. With the report, he has also annexed the original statement of complainant-respondent No.2 Nisha Rani Bhardwaj and joint statement of the petitioners, namely, Parvesh, Rami Devi and Mannu recorded on 6.1.2021. On the basis of the statements, learned Additional District & Sessions Judge, Sonapat has concluded in its report that the parties have compromised the matter of their own free will and without any undue influence, threat or coercion. It is mentioned in the report that initially the complaint was filed against Parvesh, Rami Devi, Smt. Mannu, Smt. Kumud and Dharmender, however, charge sheet was filed against Parvesh and Rami Devi and remaining

accused were mentioned in column No.2. It is also mentioned in the report that during the course of trial Mannu, Kumud and Dharmender were summoned as additional accused under Section 319 Cr.P.C. and thereafter, upon conclusion of trial, accused Parvesh, Rami Devi and Mannu were convicted under Sections 323, 498-A and 506 read with Section 34 IPC and other accused were acquitted vide judgment dated 4.7.2019. It is further mentioned that no other FIR has been found to have been registered against the accused persons.

I have heard learned counsel for the parties, perused the record and the report sent by learned Additional District & Sessions Judge, Sonapat.

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. Non-acceptance 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 a 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, in the nature of cases as prescribed 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.

In the facts and circumstances, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, the order dated 4.7.2019/9.7.2019 passed by the learned trial Court sentencing and convicting the petitioner is hereby set

aside and consequently, the FIR No.91 dated 16.3.2012, registered under Sections 498-A, 323, 506 IPC, Police Station Kharkhoda, District Sonapat; judgment and conviction order dated 9.7.2019 passed by the learned Sub-Divisional Judicial Magistrate, Kharkhoda and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners, on the basis of compromise-Family Court Settlement deed dated 19.9.2019 (Annexure P-3).

The appeal pending before the Appellate Court stands infructuous.

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.

25.4.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No