

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-5460-2020 in/and
CRR-4717-2015
Date of decision :-14.07.2022

Kuldip Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. H. S. Batth, Advocate
for the applicant/petitioner.

Mr. P.S.Walia, AAG, Punjab
for the State-respondent No.1.

Mr. Gaurav Kalsi, Advocate for respondent No.2.

SUVIR SEHGAL, J.

Revision petition is ordered to be taken on board.

Instant petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short - "the Code") challenging judgment and order of sentence dated 22.09.2014 passed by JMIC, Amritsar, whereby the accused-petitioner has been convicted and sentenced under Sections 498-A and 406 IPC, 1860, and judgment dated 16.10.2015 passed by learned

Additional Sessions Judge, Amritsar, whereby appeal against the said conviction and sentence has been dismissed.

Facts, in brief, leading to the filing of the present petition are that FIR No.02 dated 23.10.2010 has been registered against the accused petitioner as well as his parents Gurnam Singh and Narinder Kaur on an complaint moved by Harinder Kaur on the allegation that she was married to the petitioner and despite sufficient dowry given by her parents at the time of her marriage, her in-laws were not satisfied. At the time of the birth of a male child, many gifts were given. Even then, the petitioner as well as his relations physically assaulted her and turned her out of the matrimonial home. Matter was compromised and despite an undertaking by the accused, demand for a car and Rs.1 lac in cash was made. When the father of the complainant-respondent No.2 tried to reason out, he was abused and turned out by her in-laws. On conclusion of investigation, final report under Section 173 (2) of the Code was presented and vide order dated 01.12.2010, charge was framed against all the three accused for offences punishable under Sections 406 and 498-A of IPC, to which the accused pleaded not guilty and claimed trial.

Prosecution examined 13 witnesses before closing its evidence and in their statements under Section 313 of the Code, the accused pleaded innocence and false implication. They examined three witnesses in defence.

After considering the evidence led and material produced, the trial Court by the impugned judgment dated 22.09.2014 found the petitioner guilty on both the counts. However, the trial Court came to the conclusion that his aged parents were innocent and they were acquitted of the charges.

Petitioner was sentenced as under:-

Sr. No.	Name of Convict	Offences under Sections	Sentence imposed
1.	Kuldeep Singh	Section 498-A of IPC, 1860	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- (Five Hundred). In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
		Section 406 of IPC, 1860	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- (Five Hundred). In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.

The judgment and order of sentence was challenged in appeal by both the prosecution as well as the accused and by impugned judgment dated 16.10.2016, both the appeals were dismissed. That is why the accused petitioner is before this Court by way of present revision petition.

Counsel for the petitioner has submitted that FIR is an aftermath of a matrimonial dispute and during the pendency of the instant petition, the dispute has been settled by virtue of a compromise dated 07.02.2020, Annexure P-1. By inviting the attention of the Court to the compromise, he submits that it is duly signed by both the accused petitioner as well as complainant-respondent No.2 and witnessed by lawyers at Amritsar. Still further, he submits that in pursuance to the orders passed by

this Court, the parties have appeared before the trial Court and their statements have been recorded in support of the compromise. He has made a prayer that as the matter stands compromised, the offences be compounded and the petitioner be acquitted of the charges framed against him.

Upon instructions, State counsel has opposed the petition and has submitted that offence under Section 498-A of IPC is non-compoundable. By making a reference to the custody certificate, he submits that the petitioner has undergone a sentence of 03 months and 10 days before it was ordered to be suspended by this Court while admitting the revision petition on 19.01.2016.

Counsel for the complainant-respondent No.2 has, however, supported the petitioner and has submitted that the dispute has been amicably settled and he does not have any objection in case the petitioner is acquitted.

I have heard counsel for the parties and examined the material on the record.

On an application (CRM-5460-2020) filed by the accused petitioner under Section 320 read with 482 of the Code, seeking compounding of the offence on the basis of the compromise, this Court by order dated 17.02.2020 directed the parties to appear before the trial Court/Area Magistrate to record their statements in support of the compromise and a report was called for from the Court concerned regarding the genuineness of the compromise as also as to whether P.O. proceedings are against any of the parties. The trial Court has duly recorded the statements of the parties as well as that of the investigating officer and sent a report to this Court, relevant extract of which reads as under: -

“It is, further respectfully submitted that I have gone through the statements given by the parties and posed various questions to know whether any compromise has been effected between the parties. I am satisfied that compromise is genuine and has been effected between the parties voluntarily, without any coercion or undue influence. The sole purpose of the parties for effecting compromise between them is their desire to live in peace and harmony.

It is further submitted that in view of statement of investigating officer ASI Balkar Singh No.1244/ASR(R), Police Station Chattiwind, Amritsar, there are three accused involved in the present case. The accused Kuldeep Singh has been convicted by the court of Ms. Surekha Rani, JMIC, Amritsar vide judgment dated 22.9.2014. The accused Gurnam Singh and Narinder Kaur have been acquitted vide the above said judgment dated 22.9.2014 passed by the above said court of Ms. Surekha Rani, JMIC, Amritsar. No PO proceeding is pending against any of the party in the present case.”

There is no difficulty insofar as offence of criminal breach of trust under Section 406 of IPC is concerned as it is covered under Sub-Section (2) of Section 320 of the Code and is compoundable with the permission of the Court. Insofar as offence of subjecting a woman to cruelty by her husband or relative under Section 498-A, is concerned, it is non-compoundable.

Supreme Court in **Gian Singh versus State of Punjab and another, 2012 (4) RCR (Criminal) 543** has held that High Court has ample powers under Section 482 of the Code to quash an FIR or a complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have settled their entire dispute. Full Bench of this Court in **Kulwinder Singh versus State of Punjab and another, 2007 (3) RCR (Criminal) 1052** and a Division Bench of this Court in **Sube Singh and another versus State of Haryana and another, 2013 (4) RCR (Criminal) 102** has held that compounding of the offence can be allowed even after

conviction during the pendency of the appeal even in cases involving non-compoundable offences. Though the inherent powers are different from the power to compound an offence under Section 320 of the Code but the broad principles laid down in the judgments interpreting Section 482 of the Code can be followed.

Adverting to the facts of the present case, it deserves to be noticed that the FIR has been lodged by the wife of the petitioner alleging harassment and cruelty on account of non-fulfilment of the demands of dowry. FIR was lodged way back in the year 2010. The convict petitioner has faced criminal litigation for the last more than 12 years and he has not only been convicted but has also undergone a sentence of more than 03 months. The dispute has essentially arisen from a matrimonial discord which has now been amicably settled and the parties have decided to give a quietus to the dispute. Report has also been received from the trial Court that the compromise is genuine and no proceedings pending against the accused for declaring him as a proclaimed offender. Not only this, even the complainant-respondent No.2 does not have any objection in case the prayer made for acquittal of the accused is accepted.

This Court is, therefore, of the view that in the above background, no purpose would really be served by sending the petitioner behind bars to complete the remaining sentence and it is a fit case where the prayer made on behalf of the petitioner deserves to be accepted. In case it is not done, the Court feels that ends of justice would stand defeated.

Accordingly, CRM-5460-2020 seeking permission to compound the offence as well as CRR-4717-2015, challenging the impugned judgments and order are allowed. Consequently, the judgment of

conviction and order of sentence dated 22.09.2014 passed by JMIC, Amritsar as well as judgment dated 16.10.2015 passed by the Appellate Court are set aside and the petitioner is acquitted of the charges framed against him.

14.07.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No