

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(261)

CRM-M-34237-2021
Date of Decision: 02.08.2022

Sunil Kumar Saini & others

--Petitioners

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Namit Khurana, Advocate for the petitioners.

Mr. Kirpal Singh, A.A.G., Haryana.

Mr. Baljeet Nain, 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.87 dated 8.3.2020 under Sections 498-A, 323, 406, 313, 354, 506, 34 IPC registered at Police Station, Sadar Yamuna Nagar, District Yamuna Nagar and all the subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2).

As per facts of the case, present FIR was lodged by the complainant Sonia Rani who was admitted at Dhilwan Hospital. The sum and substance of the allegations made in the FIR was that marriage of the complainant Sonia Rani was solemnized on 11.10.2016 with Sunil Kumar Saini son of Hakam Singh Saini i.e. petitioner no.1. At the time of marriage a sum of Rs.20 lakh was spent on the wedding ceremony but the accused/petitioners were not satisfied with the dowry articles and they started taunting and maltreating her. After some time they raised demand of Rs.5 lakh as dowry. On her refusal, she was given beating. It was further

alleged that Rs.3 Lakh were paid to accused no.1 and 3 on 1.11.2016. Thereafter her husband went to Dubai and returned on 21.12.2016. When the complainant became pregnant the accused persons gave her medicines due to which her fetus was aborted. Complainant further narrated various atrocities committed upon her by the accused persons. Her husband went to Germany on 24.3.2017 and thereafter again the behaviour of the accused persons turned cruel towards her. Her Nandoi (brother-in-law) tried to outrage her modesty. She was also not allowed to use dowry articles and was given severe beatings. The husband of the complainant finally returned in March, 2018. However, all the accused continued their demand for dowry, gave her beatings and maltreated her. The husband of the complainant finally returned to Germany on 31.12.2018. Even thereafter she was severely beaten by her in-laws. With these allegations the present FIR was lodged for taking legal action against the culprits.

This Court vide orders dated 17.3.2022 directed the parties to appear before the Illaqa Magistrate/Duty Magistrate for recording their statements, as contended before the Court, and the Illaqa Magistrate/ Duty Magistrate was also directed to send its report.

In pursuance to the same, learned JMIC, Jagadhari sent his report dated 20.4.2022 to this Court. With the report he has also annexed the photocopy of joint statement of all the seven petitioners/accused recorded on 20.4.2022. On the basis of the statements, learned JMIC, Jagadhari has mentioned in the report that complainant/respondent no.2 Sonia Rani had not appeared to get her statement recorded. It is also mentioned that initially eight persons were arrayed as accused in the present

FIR, however, there is no information with the police regarding eighth accused namely Sudesh. It is further mentioned that the parties are not involved or declared Proclaimed Offender in any other case.

Learned counsel for the petitioner submits that petitioner no.1 has filed this petition through Special Power of Attorney as he is working in Germany, however, during pendency of the petition he personally came to India to settle the dispute. He submits that parties have settled the dispute vide compromise deed dated 9.7.2021. It is submitted that in view of the compromise arrived at, both the parties had filed a petition under Section 13-B of Hindu Marriage Act for dissolving the marriage and the same was allowed vide order dated 3.3.2022. It is further submitted that as per the settlement petitioner has paid permanent alimony of Rs.6 lakh to the respondent no.2. Both the parties preferred the present petition for quashing of FIR in question and they were directed to appear before the concerned Illaqa/Duty Magistrate for recording of their statements. All the petitioners duly appeared before the Illaqa/Duty Magistrate but respondent no.2 wife backed out of the compromise and never appeared before the court concerned for recording her statement. Counsel submits that even in the decree passed by the learned Family Court, it was mentioned that all the outstanding litigations already stand withdrawn except the FIR in question regarding which the present petition is already pending adjudication before this court. He has further submitted that the petitioners have performed their part of obligation whereas respondent no.2-wife has backed out of compromise even after receiving Rs.6 lakh as full and final settlement of her alimony etc. and she has not appeared before the Magistrate to suffer

statement in support of the compromise.

Learned counsel for the petitioner has relied upon the case of ***Ruchi Agarwal V. Amit Kumar Aggarwal, 2004(4) R.C.R (Criminal) 949*** to substantiate his arguments.

This court issued notices to respondent no.2 time and again for appearing before this court and directed her to file an affidavit regarding her stand in respect to the compromise, however, despite repeated efforts respondent no.2 never appeared before this court, however, a counsel on her behalf appeared and admitted that respondent no.2 never appeared for recording of her statement nor she has filed any affidavit regarding her stand. Learned counsel for respondent no.2 has stated that he is not in touch with respondent no.2.

I have heard learned counsel for the parties, perused the record and the report sent by learned JMJC, Jagadhari.

A perusal of the file shows that the petitioner-husband performed his part of settlement but the wife has backed out of the compromise after receiving the agreed amount and has not complied with the conditions agreed upon by her. The petitioner-husband while performing his part of settlement paid Rs.6 Lacs to the respondent-wife and all the litigations were withdrawn except the present one for which respondent no.2 did not turn up to suffer statement before the learned Magistrate. 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 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.

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 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, 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.87 dated 8.3.2020 under Sections 498-A, 323, 406, 313, 354, 506, 34 IPC registered at Police Station, Sadar Yamuna Nagar, District Yamuna Nagar and all the subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of the 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.

(RAJESH BHARDWAJ)
JUDGE

02.08.2022

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