

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(282)

CRM-M-31274-2020 (O&M)

Date of decision: - 11.10.2022

Balwinder Singh and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sandeep Kumar Bansal, Advocate, for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

None for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-37445-2022

Present application has been filed under Section 482 Cr.P.C.
for placing on record the copy of judgment and decree dated 03.01.2020
as Annexure P-3.

Application is allowed, as prayed for. The copy of judgment
and decree dated 03.01.2020 (Annexure P-3) is taken on record, subject to
all just exceptions.

CRM-M-31274-2020

This is a petition under Section 482 Cr.P.C. praying for
quashing of FIR No.53 dated 23.04.2019, under Sections 498-A and 406
IPC, registered at Police Station Amloh, District Fatehgarh Sahib and all

other consequential proceedings arising therefrom on the basis of compromise.

On 14.02.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“CRM-4299-2022

This is an application that has been filed for recalling the order dated 20.04.2021 and for restoration of the main petition, which was dismissed for non-prosecution on 20.04.2021.

It is contended by the counsel for the applicants-petitioners that he could not appear before the court, as he had noted a wrong date. It is submitted that his absence was neither intentional nor willful.

A perusal of the main petition reveals that the same has been filed for quashing of the FIR, on the basis of compromise arrived at between the parties.

Counsel appearing on complainant-respondent No.2 has no objection, if the petition is restored to its original number. He also admits to the factum of compromise arrived at between the parties.

In view of the above, the order dated 20.04.2021 is hereby recalled and the petition stands restored to its original number.

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In the meantime, the parties are directed to appear before the learned trial Court/Illaq Magistrate on 28.03.2022 or any other date convenient to the trial court/Illaq Magistrate, to get recorded their statements regarding compromise and after recording their statements, learned trial court/Illaq Magistrate, is directed to send the report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed i.e. 28.04.2022.

A copy of this order be sent to learned trial Court/Illaq Magistrate through fax for compliance.

**(JAISHREE THAKUR)
JUDGE"**

February 14, 2022

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Amloh, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

"It is further humbly submitted that:

(i) From the statements of the parties, it seems that the compromise between the parties is genuine, voluntarily and without any coercion or undue influence and the same has been arrived at between the parties out of their free will;

(ii) As per the statement of retired IO ASI Nahar Singh, none of the accused has been declared proclaimed offender in any case."

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that the petitioners have not been declared proclaimed offenders.

Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for the petitioners has stated that Sukhdeep Singh (petitioner No.4) has since deceased. It is further stated that Balwinder Singh (petitioner No.1) and Amandeep Kaur (respondent No.2) have been granted mutual divorce under Section 13-B of the Hindu Marriage Act, 1955, vide order dated 03.01.2020, passed by the Additional Civil Judge (Senior Division), Amloh and a copy of the same has also been placed on record as Annexure P-3.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.53 dated 23.04.2019, under Sections 498-A and 406 IPC, registered at Police Station Amloh, District Fatehgarh Sahib and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

October 11, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No