

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(268)

CRM-M-38854-2021
Date of Decision: 07.09.2022

Avnav Anand & others

--Petitioners

Versus

State of Haryana & another

--Respondents

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

Present:- Petitioner no.1 in person with
Mr. Anmol Jindal, Advocate for the petitioners.

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

None for respondent no.2.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.0068 dated 12.8.2020 under Sections 323, 406, 498-A IPC registered at Women West Police Station, Gurugram and all the subsequent proceedings arising therefrom on the basis of first joint statement dated 15.2.2021 (Annexure P-2).

FIR in question was got registered by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from the compromise. On the basis of the same, the petitioners are invoking the inherent power of this Court by praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

This Court vide orders dated 25.7.2022 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, Gurugram sent her report dated 5.8.2022 to this Court. With the report she has also annexed the original statement of the complainant Ritika Puri, joint statement of petitioners/accused Ashok Anand, Shammi Anand, Avneet Anand and Avnav Anand recorded on 2.8.2022 along with statement of ASI Sunny recorded on 4.8.2022. It has been mentioned in the report that complaint was lodged against five accused namely Avnav Anand, Ashok Anand, Shammi Anand, Avneet Anand and Neha, however, challan was presented against three accused namely Ashok Anand, Shammi Anand and Avneet Anand and accused Avnav Anand and Neha were not charge sheeted.

On the basis of the statements, learned JMIC, Gurugram has concluded in the report that it appears that the parties have entered into a compromise voluntarily and that there is no other accused in the present case and that petitioner/accused have not been declared Proclaimed Offender in this case.

Learned counsel for the petitioners submits that in view of the compromise arrived at both the parties approached this court. 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 in question. In pursuance to the order dated 25.7.2022 both the parties appeared before the Magistrate for recording of their statements. On the same day they appeared before the learned Family Court, Gurugram in

the proceedings under section 13-B of Hindu Marriage Act. It is submitted that the total alimony as agreed by the parties, has been paid to the respondent wife and resultant the marriage in question has been dissolved by a decree of divorce dated 2.8.2022. Petitioner no.1 Avnav Anand is present in person and submits that on the last date of hearing the complainant did not appear in this court, however, she duly appeared before the Magistrate for recording her statement. He submits that all the inter se disputes have been settled and all the pending litigations have also been withdrawn. Counsel submits that petitioner is employed as a Health Care Consultant in U.S.A and his career is at stake because of the present FIR pending against him.

As per report of the registry, respondent no.2 has been served. Report of the Magistrate also shows that both the parties duly appeared and got recorded their statements. The complainant had also deposed in her statement before the Magistrate that she would have no objection if the present FIR is quashed. Copy of decree of divorce dated 2.8.2022 has also been placed on record.

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.

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

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.

In the present case although the complainant appeared before the learned Magistrate and suffered statement pleading no objection if the present FIR is quashed and has fully supported the compromise but she has not turned up to appear before this court in support of the compromise despite service. So taking into consideration the statement of complainant before the Magistrate and dissolution of marriage by a decree of divorce under section 13-B of Hindu Marriage Act and a writing given by the complainant before the Magistrate stating therein that she has no objection if the present FIR is quashed, the compromise effected between the parties is held to be genuine.

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.0068 dated 12.8.2020 under Sections 323, 406, 498-A IPC registered at Women West Police Station, Gurugram and all the subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of the first joint statement dated 15.2.2021 (Annexure P-2). 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

07.09.2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No