

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

CRM-M-34278-2020

Date of Decision: 11.05.2022

RAHUL @ RAGHURAJ PRATAP SINGH AND ORS....Petitioners
VERSUS
STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN.

Present: Mr. G.S. Sandhu, Advocate, for the petitioners.

Ms. Sheenu Shura, DAG, Haryana.

Mr. Narinder Singh Sinder, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

The petitioners have approached this Court seeking quashing of FIR No.0017 dated 20.02.2020 under Sections 323, 324, 376/511, 406, 498-A & 506 of IPC registered at Women Police Station Karnal (Annexure P-1) on the basis of compromise dated 14.10.2020 (Annexure P-2) with all consequential proceedings.

On 28.10.2020, the following order was passed:-

FIR bearing No.17 dated 20.02.2020, under Sections 323/324/376/ 511/406/498-A, 506 IPC at Women Police Station Karnal has been registered on the basis of the statement of respondent No.2.

It has been stated that the marriage between petitioner No.1 and respondent No.2 was solemnized on 08.03.2019. It has been also stated that the matrimonial dispute between the parties has been amicably settled. They have also instituted a petition under Section 13-B of Hindu Marriage Act for dissolution of the marriage by mutual consent in the Family Court, Karnal.

Notice of motion.

Mr. Amrik Singh Narwal, DAG, Haryana, accepts notice on

behalf of respondent-State. Copy of the paper-book be supplied to him during the course of the day through email.

Mr. Dinesh Maurya, Advocate has put in appearance on behalf of respondent No.2 and filed his Power of attorney.

Learned counsel for respondent No.2 has not disputed the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 11.11.2020. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

The learned Illaqa Magistrate/Trial Court is directed to submit a report on or before the next date of hearing containing the following information:

1. Number of persons arrayed as accused in FIR;
2. Whether any accused is proclaimed offender;
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;
4. Whether the accused persons are involved in any other case or not;
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

To await the report, list again on 09.12.2020.

In view of the fact that the present proceedings initiated out of matrimonial discord between the parties have now amicably settled between the parties. In pursuant to the aforesaid order, report has been received from Civil Judge (Junior Division) cum Judicial Magistrate Ist Class, Karnal wherein it has been stated that:

- I) total number of accused as mentioned in the FIR are five namely Rahul, Rajinder Singh, Raj Kumari, Bindu and Sanyam.
- II) No accused is stated to be absconding or have been declared proclaimed offender in the instant case.
- III) As per the statements made by the complainant and the

accused persons, the under-signed is of the considered view that the been executed voluntarily and out of free will by the parties.

IV) As per the affidavits dated 11.11.2020 given on behalf of accused persons, there is no other case pending against the accused persons.

V) As per the statement of IP, there is only one victim/complainant in the FIR.

Learned counsel for respondent No.2 admits the fact of parties having compromised the matter.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offences punishable under Sections 376 and 498-A of the IPC are non compoundable.

In response thereto, learned counsel for the petitioners has relied upon the judgment passed by the Supreme Court in ***Criminal Appeal No.1489 of 2012, titled as Ramgopal and another vs. The State of Madhya Pradesh.*** The relevant portion of the same reads as under;-

“11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, the present petition is allowed. FIR No.0017 dated 20.02.2020 under Sections 323, 324, 376/511, 406, 498-A & 506 of IPC registered at Women Police Station Karnal (Annexure P-1) and all proceedings subsequent thereto are hereby quashed.

11.05.2022**kv****(PANKAJ JAIN)****JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*