

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-45450-2021

Date of Decision: March 28, 2022

Sarwan Singh

.... *Petitioner*

Versus

State of Haryana and another

... *Respondents*

CORAM: HON'BLE MR.JUSTICE VIVEK PURI

Present: Mr. Ramesh Sharma, Advocate,
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana

Mr. Nitin Sharma, Advocate,
for respondent no.2.

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Vivek Puri, J.

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short ('Cr.P.C.)) invoking its inherent jurisdiction for quashing of F.I.R. No. 195 dated 21.07.2011, registered under Sections 148/149/365/498-A/452/323 of the Indian Penal Code (Section 405 IPC added lateron), at Police Station City Tohana, District Fatehabad, as well as, judgment

dated 03.04.2018 and order dated 10.04.2018 passed by the learned Sub Divisional Judicial Magistrate, Tohana vide which the petitioner has been convicted and sentenced, on the basis of compromise dated 20.09.2021 (Annexure P-4) along with all consequential proceedings.

Precisely, the case has been registered on the basis of statement of the respondent no.2/complainant alleging that her marriage was solemnized with the petitioner on 17.01.2009. A son was born from the wedlock. The family members of the in-laws of the respondent no.2 were not happy with the dowry articles. The family members of the in-laws of the respondent no.2 and the petitioner had been taunting her for bringing less dowry and raised demand for Alto car. The respondent no.2 was mal-treated on that score. Consequently, the aforesaid FIR was registered.

Initially, the case was registered against six persons, namely, Rajender Kaur, Surender Singh @ Pappu, Sawaran Singh, Virender Singh, Inder Singh and Gurpal Kaur. However, all the aforesaid persons except petitioner - Sarwan Singh were acquitted and the petitioner was convicted under Section 452 and 323 IPC in terms

of the judgment dated 03.04.2018 and sentenced in terms of order dated 10.04.2018 as following:-

<i>Offence</i>	<i>Sentence</i>	<i>Fine</i>	<i>Sentence in default of payment of fine</i>
<i>452 IPC</i>	<i>Simple imprisonment for two years.</i>	<i>Rs. 1000/-</i>	<i>To further undergo simple imprisonment for ten days.</i>
<i>323 IPC</i>	<i>Simple imprisonment for six months.</i>	<i>Rs. 500/-</i>	<i>To further undergo simple imprisonment for seven days.</i>

Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioner has preferred a criminal appeal which is now pending in the court of learned Additional Sessions Judge, Fatehabad.

On 13.12.2021, the parties were directed to appear before the learned Additional Sessions Judge, Fatehabad for recording their statements with regard to compromise/settlement and it was further directed that after recording their statements, the learned Additional Sessions Judge, Fatehabad shall send 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 Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR."*

In compliance of the order dated 13.12.2021, both the parties have appeared before the learned Additional Sessions Judge, Fatehabad and got their statements recorded. The learned Additional District & Sessions Judge, Fatehabad after recording the statements of the parties, has sent the report dated 02.02.2022 and the relevant portion thereof is reproduced herein below:-

"(i) There were total six accused persons namely Sarwan Singh son of Inder Singh, Virender Singh son of Inder Singh, Inder Singh son of Bakar Singh, Gurpal Kaur wife of Inder Singh, Rajender Kaur wife of Sukhwinder Singh and Surender Singh alias Pappu son of Swaran Singh and out of them, Inder Singh, Gurpal Kaur and Virender

Singh were found innocent during investigation.

(ii) Accused Swaran Singh was earlier declared proclaimed offender on 29.02.2012 in the present case and later on, on 06.02.2017, he surrendered before the learned Ilaga Magistrate on the direction of Hon'ble Punjab & Haryana High Court, Chandigarh and he was arrested on the same day in the present case. No other person is proclaimed offender in the present case.

(iii) As per statement of the concerned parties as well as in view of the contents of the compromise Ex.C1, the same is genuine, voluntary and without any coercion or undue influence. Statement of concerned parties as well as statement of investigating officer is annexed herewith, for kind perusal.

(iv) As per statement of investigating officer, accused persons are not involved in any other case, as per record.

(v) Statement of Investigating Officer has been recorded and as per statement of Investigating Officer, there is only one victim/complainant in the present case who is Swaranjit Kaur (respondent no.2 in CRM-M No. 45450-2021)."

After hearing the learned counsel for the parties and going through record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at an out of the Court settlement by way of compromise (Annexure P-4). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6)SCC 466**.

In the decision rendered in ***Sube Singh and another Vs. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102***, the Division Bench of this Court has laid down as following:-

"17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to

prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case."

Furthermore, in the recent decision rendered in ***Ramgopal and another Vs. State of Madhya Pradesh, 2021 SCC OnLine SC 834***, it has been held by the Hon'ble Supreme Court that non compoundable criminal cases of pre-dominantly private nature can be quashed under Section 482 Cr.P.C. even if compromise is reached after conviction.

It may be mentioned here that the matrimonial dispute has been amicably settled. The petitioner and respondent No.2 are stated to be residing happily together along with their child and respondent no.2 has no objection if the present FIR as well as judgment of conviction and order of sentence are quashed.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, F.I.R. No. 195 dated 21.07.2011, registered under Sections 148/149/365/498-A/452/323 of the Indian Penal Code (Section 405 IPC added later on), at Police Station City Tohana, District Fatehabad, along with all consequential proceedings, on the basis of compromise dated 20.09.2021 (Annexure P-4) effected between the parties, is ordered to be quashed, as well as, the judgment of conviction dated 03.04.2018 and order of sentence dated 10.04.2018 passed by the learned Sub Division Judicial Magistrate, Tohana are set aside. The petitioner is acquitted and fine, if any, deposited be refunded. Furthermore, the appeal preferred by the petitioner against the judgment of conviction dated 03.04.2018 and order of sentence dated 10.04.2018 would be rendered infructuous and shall be so declared by the learned Additional Sessions Judge where the appeal is pending.

Resultantly, with the above-said observations made, the instant petition stands allowed.

March 28, 2022
vkd

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*