

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-47472-2021

Date of Decision: March 25, 2022

Kamal Kant Sharma

.... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIVEK PURI

Present: Mr. Aayush Gupta, Advocate,
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab

Mr. Rishab Garg, Advocate,
for respondent no.2.

*(The case has been taken up through video
conferencing on account of Covid-19
Pandemic).*

- . -

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. 87 dated 22.05.2010, registered under Sections 406, 498-A of the Indian Penal Code, at Police Station Haibowal,

District Ludhiana City, as well as, judgment dated 20.07.2016 passed by the learned Judicial Magistrate 1st Class, Ludhiana vide which the petitioner has been convicted and sentenced, on the basis of statement/compromise dated 19.08.2021 (Annexure P-3) 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 29.04.2006. There are allegations to the effect that the petitioner along with co-accused has been raising demand of car or Rs. 5 lakhs and she was maltreated on that score. Consequently, the aforesaid FIR was registered.

At the first instance, the petitioner along with his father - Sulekh Raj Sharma and mother - Smt. Sudarshna Sharma were prosecuted and the petitioner was convicted under Section 498-A of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs. 5,000/-, in default whereof, to further undergo imprisonment for a period of two months. However, the co-accused,

namely, Sulekh Raj Sharma and Sudarshna Sharma were acquitted of the charges framed against them.

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, Ludhiana.

On 06.12.2021, the parties were directed to appear before the learned Appellate Court for recording their statements with regard to compromise/settlement and it was further directed that after recording their statements, the learned Appellate Court 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 06.12.2021, both the parties have appeared before the learned Additional District & Sessions Judge, Ludhiana and got their statements recorded. The learned Additional District & Sessions Judge, Ludhiana after recording the statements of the parties, has sent the report dated 24.02.2022 and the relevant portion thereof is reproduced herein below:-

"(1) Present FIR was registered against three persons i.e. appellant Kamal Kant Sharma, Sulekh Raj Sharma and Sudarshan Sharma and learned trial Court convicted only Kamal Kant Sharma and acquitted accused Sulekh Raj Sharma and Sudarshan Sharma vide judgment and order dated 20.07.2016.

(2) As per the statement of the parties and IO, no person is proclaimed offender in the present case;

(3) So, from the perusal of statement of complainant Akshara and appellant Kamal Kant Sharma, both the parties voluntarily entered into a genuine compromise without any kind of coercion or undue influence.

(4) As per statement of parties, appellant or his parents are not involved in any other case.

(5) Statement of Investigating Officer was recorded in this case and he stated that present case was got registered on the statement of complainant Akshara and she is the only complainant and victim of the present case."

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-3). 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 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.

The matrimonial dispute has been amicably settled between the parties. The marriage of the petitioner and the respondent no.2 has been

dissolved by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act in terms of the judgment and decree dated 02.03.2022 passed by the learned Additional Principal Judge, Family Court, Ludhiana. It has been further stated that the respondent no.2 has received a sum of Rs. 8 lakhs on account of permanent alimony.

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. 87 dated 22.05.2010, registered under Sections 406, 498-A of the Indian Penal Code, at Police Station Haibowal, District Ludhiana City along with all consequential proceedings, on the basis of statement/compromise dated 19.08.2021 (Annexure P-3) effected between the parties, is ordered to be quashed, as well as, the judgment of conviction and order of sentence dated 20.07.2016 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Ludhiana 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 and order of sentence dated 20.07.2016 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 25, 2022
vkd

(VIVEK PURI)
JUDGE

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