

RAHUL YADAV AND ORS.

..PETITIONERS

VERSUS

STATE OF HARYANA AND ANR.

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Dev Kaushik, Advocate for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Ankur Dua, Advocate for respondent No.2.

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

VIVEK PURI, J. (ORAL)

Petitioners have approached this Court by way of instant petition under Section 482 Cr.P.C. invoking its inherent jurisdiction for quashing of FIR No. 552 dated 23.06.2016, under Sections 498-A/406/506/34 IPC 1860, registered at Police Station Gurgaon City, District Gurgaon and all the consequential proceedings arising therefrom, on the basis of compromise.

At the very outset, learned counsel for the petitioners has sought to withdraw the petition qua petitioner Nos.2,4 and 5 stating that they have not been arraigned as an accused as per the report received from the learned Judicial Magistrate 1st Class, Gurugram.

On 08.11.2021, parties were directed to appear before the Trial Court/Illaq Magistrate and get their statements recorded with regard to the compromise arrived at between them.

The trial Court was directed to record the statements of all the concerned and send its report regarding genuineness and voluntary nature of the

In compliance of the order dated 08.11.2021, learned Judicial Magistrate 1st Class, Gurugram has recorded the statements of the parties and submitted its report dated 06.12.2021, which is as following:-

“Vide order dated 08.11.2021 in criminal Misc.No.CRM-M-46728-2021 passed by the Hon'ble High Court, the trial court was directed to record the statements of the concerned parties with regard to the compromise. The complainant as well as the accused persons have appeared before the court. Copy of order dated 08.11.2021 passed by the Hon'ble High Court has been received whereby this court has been directed to report regarding the compromise between the parties, in pursuance to which, complainant and accused have appeared before the court in person today. Being satisfied that the statements were being voluntarily made, statements of the concerned parties were recorded on oath. Alka (complainant) and Rahul Yadav and Tarawati (charge-sheeted accused) have stated on oath that compromise(as per MOU dated 28.09.2021 filed before the Hon'ble High Court) has been effected between the parties. They have further stated that they have no objection if the present case is quashed. In compliance of which the complainant does not want to proceed against accused persons (challaned as well as those who were mentioned in the FIR but against whom no challan was filed) any further. Perusal of the record as well as the statement/reply of the IO submitted today i.e. 15.11.2021 reflect that initially complaint was lodged against five accused namely Rahul Yadav(husband),Tarawati(mother-in-law),Ramesh (father-in-law), Meenakshi and Deepa (both Sister-in-law). Out of whom challan was presented only against two accused namely Rahul and Tarawati. Final challan was filed under Sections 498-A/406/506 & 34 IPC.

In the present case, there is one complainant (as per the report of IO) details of whom are as follows:

- 1. Alka, daughter of Sh. Krishan Kumar, resident of H.NO. 438/20, Shanti Nagar, near Old*

Labour Court, Gurugram.

In the present case, (as per the report of IO) there are total five accused persons named in the FIR. However, only two accused persons were charge-sheeted, details of whom are as follows:-

1. Rahul Yadav, S/o Sh. Ramesh Yadav, age 36 years, R/o village Palra, Tehsil Badshahpur, District Gurugram.

2. Tarawati, w/o Sh. Ramesh Yadav, age 62 years, R/o village Palra, Tehsil Badshahpur, District Gurugram.

In view of the statements of the interested parties, I am satisfied that, they have compromised the matter amongst themselves without any fear or pressure and that the compromise has been voluntarily arrived at between them. Also this court was directed to report as to whether the accused are proclaimed offenders and whether there is any other case pending against them. On which report of IO was sought. Wherein, it is submitted that the accused are not proclaimed offenders in the said case. Statement of Investigating Officer is recorded wherein he has stated that no other case is pending against them in any court. Statements of the interested parties in original as well as the report of the undersigned be sent to the Hon'ble High Court. The statements and report be also sent to the Hon'ble High Court through FAX immediately before the next date of hearing before the Hon'ble High Court i.e. 13.12.2021. Copies of the statements of the parties and the report be also retained on the file for record purposes. Statements of the interested parties in original is enclosed herewith."

Learned counsel for the petitioners contends that the matrimonial dispute has been amicably settled between the parties. Petitioner No.1 has paid a sum of Rs. 30 lakhs on account of permanent alimony for respondent No.2 and the minor child. All the pending cases have been withdrawn. Respondent No.2 has withdrawn the complaint/petition under Section 12 of the Protection of Women from Domestic Violence Act and the petition under Section 125 Cr.P.C. Petitioner

No.1 had earlier instituted a petition under Section 13 of Hindu Marriage Act for dissolution of marriage, the same was allowed and the marriage between the parties was dissolved by a decree of divorce. Respondent No.2 had preferred an appeal bearing FAO No. 7008 of 2018. In pursuance of the compromise, the aforesaid appeal has also been withdrawn by respondent No.2.

After hearing the learned counsel for the parties and going through the 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 a settlement, out of the Court, by way of compromise. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

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***.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 552 dated 23.06.2016, under Sections 498-A/406/506/34 IPC 1860, registered at Police Station Gurgaon City, District Gurgaon and all the consequential proceedings arising therefrom, are ordered to be quashed, however, qua petitioner Nos. 1 and 3 only.

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

25.02.2022
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(VIVEK PURI)
JUDGE