

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48285-2021

Date of decision : 27.05.2022

Deepak and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Parveen Sharma, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Davinder Kumar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.476 dated 21.08.2018 (Annexure P-1) registered under Sections 323, 376, 498-A, 506 and 511 IPC (Section 34 of IPC added later on and Sections 376 and 511 deleted at the time of filing challan) at Police Station Sonipat Sadar, District Sonipat and all subsequent proceedings arising therefrom, on the basis of compromise deed dated 25.10.2021 (Annexure P-2).

On 28.02.2022, the following order was passed:-

“CRM-6481-2022

This is an application for preponement of the main case which is stated to be fixed for 23.09.2022.

Notice in the application.

Mr. Zorawar Singh Chauhan, DAG, Haryana on behalf of the respondent-State and Mr. Davinder Singh, Advocate on behalf of respondent No.2 accept notice in the instant application.

By recording no objection on behalf of learned State counsel as well as learned counsel for respondent No.2, the main case is taken up on board today itself.

CRM stands disposed of.

Main case

Reply by way of affidavit of Satish Kumar, HPS, Deputy Superintendent of Police, Sonipat on behalf of the respondent-State has been filed and the same is taken on record.

Petitioners are seeking quashing of FIR bearing No. 476 dated 21.08.2018, under Sections 323/376/498-A/506/511 IPC,1860 (Section 34 of IPC added later on and Section 376 and 511 deleted) registered at Police Station Sonipat Sadar, District Sonipat and all the subsequent proceedings arising therefrom on the basis of compromise having been effected between the parties.

Learned counsel for the petitioners contends that the matrimonial dispute has been amicably settled between the parties in terms of compromise dated 25.10.2021 (Annexure P-2). The offence under Sections 376/511 IPC has been deleted and the offence under Section 34 IPC has been added later on. The petitioner No.1 and respondent No.2 have already instituted a petition under Section 13-B of Hindu Marriage Act for dissolution of marriage by mutual consent, wherein the statements of the parties at the stage of first motion have already been recorded.

Learned counsel for respondent No.2 has acknowledged 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 29.03.2022. It is made clear that if for any reason, the statements are not recorded on that

date, the same may be recorded on any date convenient to 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 27.05.2022.”

Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Sonapat dated 08.04.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In these circumstances, it is concluded that the statements of the parties are *bona fide* and are not result of any threat, duress or coercion in any manner and hence compromise effected between the parties is genuine, voluntarily and without any coercion or undue influence and is valid one.

ii) In the abovesaid FIR No.476 dated 21.08.2018, PS Sadar, Sonapat, IO of the present case appeared and suffered a statement, which is Annexure-V (Annexed herewith in original). As per

statement of I.O./A.S.I. Darshana No.1061/SPT, posted in P.S. Sadar, Sonapat, in the present case bearing FIR no.476 dated 21.08.2018 accused Deepak, Vidya Devi, Lakhmi Dutt are the only accused arrayed in the present FIR. There is no other case registered against them in her knowledge and there is no proclaimed offender in the present FIR and Mamta is the only victim/complainant in the present FIR.”

Mr. Davinder Kumar, Advocate appears for respondent No.2, admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 498-A of the IPC is non compoundable.

In response thereto, learned counsel for the petitioners relies 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 which reads as under;-

“11. True it is that offences which are ‘non-compoundable’ 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, present petition is allowed and FIR No.476 dated 21.08.2018 (Annexure P-1) registered under Sections 323, 376, 498-A, 506 and 511 IPC (Section 34 of IPC added later on and Sections 376 and 511 deleted at the time of filing challan) at Police Station Sonipat Sadar, District Sonipat and all subsequent proceedings arising therefrom are hereby quashed.

(PANKAJ JAIN)
JUDGE

27.05.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No