

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

CRM-M-50666-2021

Date of decision : 16.08.2022

Sahib Gulati

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vivek K. Thakur, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab
for respondent No.1/State.

Mr. Parminder Singh, Advocate for
Mr. Sarup Kaushik, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.104, dated 9th of May, 2019, under Sections 307, 309 of the Indian Penal Code, registered at Police Station City Tarn Taran, District Tarn Taran (Annexure P-1) and all subsequent proceedings arising thereto, on the basis of compromise dated 27th of November, 2021 (Annexure P-4).

2. Reply by way of affidavit of respondent No.2 has been filed in Court today. The same is taken on record.

3. This is a case where complaint was registered at the behest of husband against his wife.

4. FIR was registered at the behest of respondent No.2, who alleged that :-

“Sir, Respectfully, it is submitted that I, Abhijeet Singh son of Jagmohan Singh, am a resident of B-1/410, Golden Enclave, Deep Avenue, Tarn Taran and submit as under : That my marriage was solemnized with Sahiba Arora on dated 16.01.2016, from which I am having a baby daughter, Neeraz Arora, aged 2 years. That my wife is suffering mental disease and his treatment is continued from Delhi and for the last about 6 months, she is getting her treatment from Delhi. As she has attempted to commit suicide many times, therefore, we have got registered a D.D.R. Number 30 dated 19.11.18 at Police Station City, Tarn Taran, a copy of which is annexed herewith and the statement of her father Sardar Manmohan Singh is also attached herewith. That 2 months back, in the start of march, my wife Sahiba Arora forcibly entered my house, whereas it was decided that till the time she could not mentally fit, she will not come to her in-laws' house, because till now, my wife has tried to commit suicide many times. The Medical Reports of my wife are annexed herewith. That today i.e. dated 08.05.19, at about 03.30 p.m., my wife went to the first floor of the house and she forcibly administered Harpic to my daughter Reenaz aged 2 years and she herself also enacted drama to drink Harpic. At present, my daughter is under treatment at Guru Nanak Dev Super Speciality Hospital, Tarn Taran and Sahiba Arora is also under treatment. You are requested to kindly hand over my daughter Reenaz to me and my wife may be handed over to her parents and after registering a case under Sections 307/326 IPC against my wife for trying to kill my daughter, action be taken....”

5. Parties got married on 16th of January, 2016 and they are parents to a child aged 5 years. After registration of FIR, the matter was investigated. The police prepared Cancellation Report dated 9th of December, 2019. Operative part of the same reads as under :-

“...During the investigation, the enquiry of the Complaint Number 339/D.P.O. Dated 14.05.19 from Manmohan Singh son of Ram Singh, resident of 100, Baba Deep Singh Colony, Near Chatiwind, Amritsar was conducted by the Superintendent of Police, Investigation, Tarn Taran, who in his conclusion Report has mentioned that from the secret and open enquiry conducted by me, the statements of the witnesses and the Doctor's opinion obtained, it has been verified that the aforesaid case got registered by Abhijeet Singh son of Jagmohan Singh, resident of B-410, Golden Enclave, Deep Avenue, Tarn Taran against his wife Sahiba Aora by levelling the allegation to administer Harpic to her daughter Reenaz is totally wrong, because the Doctor has mentioned in his Report that all the test of the child have been conducted. Besides this, Abhijeet Singh mostly stays away from his house with regard to his work. The in-laws family of Sahiba Arora was causing harassment to her, who became mentally upset/distressed, but by fabricating this concocted story registered this case and no symptoms of administering Harpic to the daughter Reenaz have not been found. Therefore, the incident mentioned in this case has not been verified...”

6. The Cancellation Report was presented before the Chief Judicial Magistrate, Tarn Taran. Complainant came present before the Court and suffered a statement expressing his concurrence with the Cancellation Report. Surprisingly, the Cancellation Report was rejected

and the following order was passed on 3rd of March, 2021 :-

“Cancellation report presented today. It be registered. Complainant Abhijit Singh has come present in the court today and suffered statement that he agrees with the cancellation report submitted by the police in FIR no. 104 dt. 09.05.2019, U/s 307,309 IPC of PS City Tarn Taran.

Record perused which shows that the investigating agency found the accused innocent during alleged inquiry, Apparently, the role of the court has been assumed by the investigating agency which is illegal against procedure set by law and perverse. Taking into consideration the nature and gravity of allegation levelled by complainant Abhijit Singh while regarding FIR no.104 dt. 09.05.2019 U/s 307,309 of IPC, PS City Tarn Taran regarding attempt to commit suicide and murder, the cancellation report is rejected with the direction to the investigation officer to investigate further in accordance with law. Judicial papers be separated and placed with the FIR & be consigned to the record room,after due compliance. Police file be returned to the investigation officer along with the copy of this order.”

7. Parties reconciled their differences and started living together.

On 27th of November, 2021 respondent No.2 (complainant) executed an affidavit to the following effect :-

“Affidavit of Abhijeet Singh son of Jagmohan Singh Gulatii aged 32 years resident of H no. B-1/410/ Golden Enclave/ Deep Avenue/ Tarn- Taran/ Punjab.

- 1. That the deponent got registered a FIR no. 0104 dated 09.05.2019 under section 307, 309 IPC at Police station – City Tarn Taran, District – Tarn Taran.*

2. *That the aforementioned FIR has been registered on account of the matrimonial dispute between the deponent and his wife namely Sahiba Arora @ Sahib Gulati due to some misunderstanding between the couple. However, presently the deponent and his wife are residing together along with their daughter namely Ranaaz Gulati aged about 5 years.*
3. *That the deponent and the accused i.e. Sahiba Arora have no ill will against each other and the deponent do not want to pursue the aforementioned FIR against his wife i.e. Sahiba Arora.*
4. *That the deponent has no objection in case if the aforementioned FIR no.104 dated 09.05.2019 under section 307, 309 IPC at Police station – City Tarn Taran, District – Tarn Taran registered against his wife Sahiba Arora is quashed by the Hon'ble Punjab and Haryana High Court as both the husband and wife are living happily along with their daughter.”*

8. It is in these circumstances, the present petition has been filed seeking quashing of the FIR along with all subsequent proceedings arising thereto. Respondent No.2 i.e. the complainant filed reply by way of affidavit wherein he has reiterated the facts recorded in his affidavit dated 27th of November, 2021 (Annexure P-4). Ld. Counsel for the respondent/State is not in position to dispute the factual premises and admits the facts as recorded in the Cancellation Report dated 9th of December, 2019. Once, the parties have decided to bury the hatchet and have started living together as a happy family, there is no reason to continue with the proceedings. The pendency of the proceedings will not only act as

a spoil sport but shall also keep on reminding them of bitter times. It will be an impediment in reconstruction of their matrimonial ties. Supreme Court while dealing with the similar situation in the case of G.V. Rao vs. L.H.V. Prasad, (2000) 3 SCC 693 held that -

“12. There has been an outburst of matrimonial disputes in recent times. The marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts.”

9. This Court is conscious of the fact that offence punishable under Section 307 IPC and that under Section 309 IPC is a non-compoundable offence. However, it cannot be ignored that it is duty of this Court to encourage genuine settlements of matrimonial disputes. Moreover, Apex Court in **Criminal Appeal No.1489 of 2012** titled as '**Ramgopal and another vs. The State of Madhya Pradesh**' held that -

“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.”

10. Keeping in view the facts and circumstances of the present case, the present petition is allowed. FIR No.104, dated 9th of May, 2019, under Sections 307, 309 of the Indian Penal Code, registered at Police Station City Tarn Taran, District Tarn Taran (Annexure P-1) and all subsequent proceedings arising thereto are hereby quashed.

11. Ordered accordingly.

August 16, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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