

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

CRM-M-44332-2019

Date of decision : 29.11.2022

Rekha and others

.....Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Gautam Kailey, Advocate
for the petitioners.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Ms. Mamta Panwar, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J. (Oral)

Petitioners have approached this Court praying for quashing of the FIR No.0667 dated 18.12.2017, under Section 23 of the pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and Sections 120-B, 312 and 506 of IPC, registered at Police Station Gannaur, District Sonipat.

Learned counsel for the petitioners reiterates his submissions that after initiation of the litigations, both the parties had resolved the dispute by way of compromise dated 14.05.2019 and the petitioners in pursuance to the same, had duly appeared before the Magistrate and FIR against the respondent-husband was quashed. However, he submits that now the respondent No.2 after getting the FIR quashed against him has tried to wriggle out of the compromise and thus, has intentionally not honoured the compromise arrived at between the parties.

Learned counsel for the petitioners has relied upon the cases of **Mohd. Shamim V. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697**

and **Ruchi Agarwal V. Amit Kumar Aggarwal, 2004(4) R.C.R (Criminal) 949** to substantiate his arguments.

Learned counsel for the complainant submits that the respondent had entered into compromise only with petitioner No.1 and not with rest of the petitioners. However, she submits that petitioner is ready to compromise the matter with petitioner No.2 also but would not compromise *qua* petitioners No.3 and 4.

Heard.

The Hon'ble Supreme Court in the case of **Ruchi Agarwal's (supra)** has held that in such like situation where the intention of the wife is to harass the petitioner-husband, continuation of criminal proceedings against the petitioner would be an abuse of the process of the Court especially when the petitioner-husband has already performed his part of settlement and the respondent-wife is not coming forward to make statement in support of the compromise. Under these circumstances, the validity of the compromise cannot be negated.

From the perusal of the compromise arrived at between the parties, it is *prima facie* apparent that the parties have already sought divorce under Section 13-B of Hindu Marriage Act which was granted vide order dated 17.07.2019. Para No.7 of the settlement deed reads as under:-

“That the First party and Second party will file the quashing petitions of FIR No.667/2017, under Sections 323, 498-A, 377 IPC and FIR no.212/2017, under Sections 323, 377, 498-A, 34 IPC in the Hon'ble High Court of Punjab & Haryana, Chandigarh after recording the statement in the First motion petition under Section 13-B(1) of H.M.A. 1955 in the Court.”

As per the compromise arrived at between the parties, both the parties had agreed to get both the FIR quashed i.e. FIR No.667/2017, under Sections 323, 498-A, 377 of IPC and also FIR No.212/2017, under Sections 323, 377, 498-A, 34 of IPC. The FIR No.212/2017 has already been quashed vide order dated 28.08.2019 passed in CRM-M-24662-2019. However, after getting the said FIR quashed, now the respondent No.2 had raised the objection that he had entered into the compromise only *qua* petitioner No.1-Rekha Rani and thus, does not support the compromise *qua* petitioners Nos.2 to 4. However, during the course of arguments, learned counsel for the complainant sought some time to take instructions from her client. After having taken instructions, she submitted before the Court that the respondent has agreed to accept the compromise only *qua* petitioners No.1 and 2. However, *qua* petitioners No.3 and 4, he does not accept the compromise and thus, he wants to continue the litigation proceedings *qua* them.

The nature of the case is purely matrimonial in nature. There were *inter se* litigations between both the parties pertaining to both the above said FIRs, the maintenance application under Section 125 Cr.P.C., petition under Section 12 of Domestic Violence Act and petition under Section 9 of Hindu Marriage Act. As per the compromise, the permanent alimony was also agreed to be paid and all the petitions were also agreed to be withdrawn. Then the FIR against the respondent-husband already stand quashed. This leaves no doubt in the mind of the Court that the petitioners have duly honoured the compromise arrived at between the parties. The marriage has already been dissolved by decree of divorce passed under Section 13-B of Hindu Marriage Act. The arguments raised by the respondent-husband at this stage that he is agreeing for the

quashing of the FIR No.667/2017 only qua petitioner No.1 is totally mischievous. On perusal of the compromise, it is clear that in the FIR No.212/2012 initially there were three accused, however, challan was presented only against the respondent-husband but the petitioner never raised such an argument that the said FIR should be quashed only *qua* him and not against rest of the accused. Once said FIR has been quashed now he has taken this defence that quashing of present FIR would be applicable only qua petitioner No.1. However, he has agreed to support the compromise qua petitioners No.1 and 2 as per the arguments raised by counsel for respondent No.2 after seeking instructions.

After hearing counsel for the parties and perusing the record, this Court finds that the marriage of petitioner with respondent No.2 already stands dissolved. The allegations pertaining to Section 313 Cr.P.C. were not substantiated. Challan already stands presented. The relationship between the petitioner No.1 and respondent No.2 has already come to end and the permanent alimony agreed upon has also been paid. This Court is not ready to accept the contentions of respondent No.2 that he has compromised the matter with petitioners No.1 & 2 and as such he may be allowed to continue with the proceedings against petitioners No.3 & 4. Once the FIR against him stands quashed in view of the compromise, he is not expected to back out of the compromise to say that the proceedings in the present case may be allowed to continue against petitioners No.3 & 4. This shows his *malafide* intention and the Court cannot accept his prayer. Keeping in view the matrimonial nature of the dispute the Court refrain itself from imposing cost upon respondent No.2 for his *malafide* intentions in trying to circumvent the compromise duly agreed upon.

Keeping in view the above facts, the continuation of criminal

prosecution would be a futile exercise. The Hon'ble Supreme Court in a

number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466***; ***B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675*** followed by this Court in Full Bench case of ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052*** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in *Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303* further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335*. Para 61 of the judgment reads as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the

dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In the overall facts and circumstances of the case, this Court

finds that the present case is a fit case where this Court should invoke

inherent jurisdiction to meet the ends of justice. Resultantly, the present petition is allowed and FIR No.0667 dated 18.12.2017, under Section 23 of the pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and Sections 120-B, 312 and 506 of IPC, registered at Police Station Gannaur, District Sonipat, is quashed.

29.11.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No