126 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1456-2023
Date of Decision:12.01.2023

JASLEEN SINGH AND OTHERS ..... Petitioners

Versus

STATE OF HARYANA AND ANOTHER ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K. Bairagi, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. Vikram Rana, Advocate
for the complainant.

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JAGMOHAN BANSAL, J. (Oral)

The petitioners through instant petition, on the basis of compromise are seeking quashing of FIR No.1287 dated 25.11.2019 (Annexure P-1), registered at Police Station City Thanesar under Sections 323, 406, 498A, 506 and 34 of IPC.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana and Mr. Vikram Rana, Advocate accept notice on behalf of respondent No. 1 State and complainant respectively.

The parties are *ad idem* that marriage between the petitioner No.1 and respondent No.2 stands dissolved vide judgment and order dated 21.11.2022 passed by Principal Judge, Family Court, Kurukshetra. The relevant extracts of judgment dated 21.11.2022 passed by Family read as:

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"It is evident from the pleadings and statements of the petitioners that marriage of the petitioners was solemnized on 7.11,2016 and the marriage was duly consummated. Due to temperamental differences, the parties are living separately since 12.10.2019 and thereafter, no cohabitation has taken place between them. They filed the present petition on 21.5.2022, seeking dissolution of their marriage by decree of divorce on the ground of mutual consent. The petitioners appeared in person and efforts for reconciliation were made but the same were not successful. So, the parties got recorded their statement on first motion on 21.5.2022 and on second motion today i.e. on 21.11.2022. The marriage between the parties has broken down irretrievably and the parties are unable to husband and wife. Even after filing of the petition and making of first live together as statement sufficient time was given to the petitioners to reconsider the matter but they have reiterated their resolve to get their marriage dissolved by mutual consent. All the matters regarding claim of petitioner no.1 for permanent alimony, maintenance and all other claims for past, present and future have been settled for 7,25,000/- and the said amount has been accepted and received by petitioner no.1. Nothing remains due against each other.

7. Thus, all the conditions for applicability of Section 13-B of the Act are fulfilled and this Court is satisfied that the petitioners are seeking dissolution of their marriage by decree of divorce on the ground of mutual consent voluntarily, without any force, fraud and coercion. The petitioners have already settled their respective claims and, thus, there is no dispute left between the petitioners in respect of permanent alimony and return of dowry articles. Both the petitioners shall abide by the terms and conditions settled between them.

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> *8. In view of the discussion above and statements of the parties, the petition is allowed and decree of divorce for dissolution of marriage between the parties on the ground of mutual consent as provided under Section 13-B of the Act is passed. Parties are left to bear their own costs. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance."*

Learned State counsel on instruction from Investigating Officer and learned counsel for the complainant submitted that they have no objection if FIR and consequent proceedings in view of compromise are quashed.

Relying upon its earlier judgments in '***Gian Singh Vs. State of Punjab and others, (2012) 10 SCC 303'*** and ***'The State of Madhya Pradesh Vs. Laxmi Narayan and others (2019) 5 SCC 688'***, a two Judge Bench of the Hon'ble Supreme Court in ***'Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834'*** while dealing with power of High Court under Section 482 of Cr.P.C. to quash non-compoundable offences on the basis of compromise between the disputing parties has held:

> *"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 320Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320Cr.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*

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offence within the framework of Section 320Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non- compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due

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> *regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors.3 and Laxmi Narayan (Supra).*
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> *14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed between two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."*

From the perusal of the enclosed FIR, decree of divorce and statement of the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The alleged offences are of pre-dominantly private in nature and no moral turpitude or interest of public at large is involved.

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There appears to be no chance of conviction, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed.

FIR No.1287 dated 25.11.2019 (Annexure P-1), registered at Police Station City Thanesar under Sections 323, 406, 498A, 506 and 34 of IPC, and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

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

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