

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

135

CRM-M-8351-2023

Date of Decision: 29.03.2023

Mudit Bhardwaj and Others**...Petitioners****Versus****State of Haryana and Another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Abhishek Chha, Advocate for the petitioners

Ms. Priyanka Sadar, AAG, Haryana

Mr. Kulwinder Singh, Advocate
for respondent No.2/complainant

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Section 482 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') are seeking quashing of FIR No.486 dated 13.08.2018 (Annexure P-1) under Sections 323, 34, 406, 498-A & 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Hisar Civil, District Hisar and all subsequent proceedings arising therefrom on the basis of decree of divorce by way mutual consent granted by Additional Sessions Judge-cum-Principal Judge, Family Court, Hisar.

2. The brief facts of the case are that petitioner No.1 solemnized marriage with respondent No.2 on 20.02.2018. No child was born from this wedlock. Due to temperamental issues, marriage of petitioner and complainant miserably failed. The complainant lodged

impugned FIR against the petitioners. During the pendency of criminal proceedings, the parties entered into compromise and in terms of compromise, they decided to file petition under Section 13-B of Hindu Marriage Act, 1955 (for short 'HMA') seeking divorce by mutual consent. As per compromise, the petitioner was supposed to pay a sum of Rs.2 Lacs to the complainant. In terms of the compromise and statements made by both sides, decree of divorce dated 31.08.2021 came to be passed, whereby Family Court, Hisar ordered dissolution of marriage of the petitioner No.1 with complainant.

The petitioner has preferred present petition seeking quashing of FIR on the basis of settlement between the parties and decree of divorce.

3. Mr. Kulwinder Singh, Advocate appeared and filed his Power of Attorney on behalf of respondent No.2/complainant. The same is taken on record. Registry is directed to tag at an appropriate place. Learned counsel for respondent No.2/complainant submits that complainant has no objection, if impugned FIR is quashed as parties have amicably settled their disputes. She no more carries grudge against the petitioners. The respondent No.2 has solemnized second marriage.

4. Learned State counsel submits that respondent-State has no objection, if FIR and consequential proceedings, in view of compromise, are quashed.

5. I have heard learned counsel for the parties and scrutinized the record.

6. The conceded position emerging from the record is that petitioner No.1 and complainant solemnized marriage, no child was born from this marriage, however, personal issues overpowered institution of marriage entailing divorce by mutual consent.

7. 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 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.

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 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. and Laxmi Narayan (Supra).

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.”

8. From the perusal of the record, statement and decree of divorce by mutual consent, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The complainant has solemnized second marriage. The alleged offences are of pre-dominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, thus, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

9. In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed. FIR No.486 dated 13.08.2018 (Annexure P-1) under Sections 323, 34, 406, 498-A & 506 of IPC registered at Police Station Hisar Civil, District Hisar and all consequential proceedings arising therefrom, are quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

29.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>