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2023:PHHC:152183

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

CRM-M-12909-2017

Date of decision: 29th November, 2023

Kulbir and others

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Omkar Chauhan, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. Sushil Jain, Advocate for respondent No.2.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No.430, dated 24.09.2014, registered under Sections 498-A, 406, 323, 294 read with Section 34 of Indian Penal Code, 1860, at Police Station Kharkhoda, District Sonapat, (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of a compromise which was arrived at between the parties during the course of a petition filed under Section 13-B of Hindu Marriage Act, 1955 for dissolving their marriage by a decree of divorce.

2. The aforementioned FIR had been lodged by respondent No.2/complainant and investigation was commenced thereon.

3. It is submitted by learned counsel for the petitioners as well as respondent No.2 that at the time of recording statements in the first motion, respondent No.2 had agreed to dissolve her marriage with petitioner No.1 and the parties had undertaken to not to initiate any civil or criminal action against each other and also to withdraw all the litigations either civil or criminal as pending between them.

4. On the basis of the compromise shown to be effected by way of making statements, the petitioners have prayed for quashing of the FIR and all the subsequent proceedings on the ground that continuation of such proceedings would be a futile exercise.

5. This Court vide order dated 24.07.2023 had directed the parties to appear before the trial Court/Duty Magistrate for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The trial Court/Duty Magistrate was also directed to send his/her report along with the said statements.

6. Pursuant to the aforesaid order, Sub Divisional Judicial Magistrate, Kharkhoda, District Sonipat has sent report dated 25.10.2023 to this Court along with the statements of respondent No.2- Bhawna @Nisha @ Sonia, petitioners and statement of Investigating Officer SI Umesh as recorded on 06.09.2023.

7. On the basis of these statements, it is submitted by learned Magistrate that the compromise effected between the parties is genuine, out of free Will and without any pressure or coercion. It is also mentioned in the report that apart from the petitioners, there is no other accused in the FIR and that the accused have not been declared proclaimed persons in this case.

8. I have heard learned counsel for the parties and besides perusing the report by learned Judicial Magistrate, have also perused the record.

9. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to

prevent the abuse of process of law or otherwise to secure the ends of justice. Such power is not confined to matrimonial disputes alone. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases relating to 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. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as ***Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543*** and ***Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466***.

10. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of

the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No.430, dated 24.09.2014, registered under Sections 498-A, 406, 323, 294 read with Section 34 of Indian Penal Code, 1860, at Police Station Kharkhoda, District Sonapat, (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of statements recorded by them in proceedings initiated under Section 13-B of the Act, 1955 as well as the statements recorded by them before the trial Court on 06.09.2023.

11. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

[MANISHA BATRA]
JUDGE

29th November, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |