

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19500-2021

Date of Decision:13.01.2023

HARPREET SINGH

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Akshay Kumar Jindal, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Samar Ahluwalia, Advocate for
Mr. Gopal Soni, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C, on the basis of Compromise dated 07.04.2021 (Annexure P-2), is seeking quashing of FIR No.149 dated 29.12.2017 (Annexure P-1) under Sections 323, 406, 498A & 34 of IPC, registered at Women Police Station Jind, District Jind, and all subsequent proceedings arising therefrom.

In terms of order dated 01.07.2021 of this Court, Additional Chief Judicial Magistrate, Jind, has submitted his report dated 15.12.2021. The relevant extracts of the report are as below:-

“In continuation of my letter No.712 dated 23.08.2021, it is submitted that as per order dated 17.11.2021, passed in CRM-M-19500 of 2021, statements of complainant Gurvinder Kaur and accused persons-Harpreet Singh and Gurmeet Singh have been

recorded. All of them have admitted to a compromise having been effected between them. Accused Harpreet Singh has also stated that he has been divorced from the complainant. The facts of the parties having failed (depicting contextual reluctance) to appear before this Court, for recording their statements, as desired by the High Court vide order dated 01.07.21, and that of the accused Harpreet having admitted to already having been divorced from the complainant, collectively show that the compromise between the parties was predicted on filing (which filing is evident from their application No.CRM-27942 of 2021) and allowance of a petition for divorce by mutual consent, which scenario would go against the compromise being totally voluntary.”

Learned counsels for the petitioner and respondent No.2 are ad idem that decree of divorce has already been passed and marriage stands dissolved between the parties.

Learned State counsel would submit that respondent-State has no objection, if the present FIR and subsequent proceedings 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 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 predominantly 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 extraordinary 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).

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 betwixt 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, report of the Trial Court and compromise arrived between 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. There appears to be no chance of conviction, thus, 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 and decree of divorce, the present petition deserves to be allowed and accordingly allowed. FIR No.149 dated 29.12.2017 (Annexure P-1) under Sections 323, 406, 498A & 34 of IPC, registered at Women Police Station Jind, District Jind, and all subsequent proceedings arising therefrom, are hereby quashed *qua* the petitioner.

(JAGMOHAN BANSAL)
JUDGE

13.01.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>