

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

207

CRM-M-18254-2022

Date of Decision: 28.03.2023

Vikram Singh

...Petitioner

Versus

State Of U.T., Chandigarh and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Subhash Kumar, Advocate for the petitioner

Mr. Viranjeet Singh Mahal, Addl. P.P., U.T., Chandigarh
(assisted by ASI Padam Singh, P.S. Women Police Station
Sector 17, Chandigarh)

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking quashing of FIR No.75 dated 17.05.2019 (Annexure P-1) under Section 498-A of Indian Penal Code, 1860 (for short 'IPC') registered at Women Police Station, Sector 17, Chandigarh and all consequential proceedings arising therefrom on the basis of decree of divorce dated 17.08.2021 (Annexure P-2).

2. The brief facts of the case are that petitioner solemnized marriage with respondent No.2 on 07.12.2003. Two children were born from this wedlock. Due to temperamental issues, marriage of petitioner and complainant miserably failed. The complainant lodged impugned FIR against the petitioner. 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. The complainant executed an affidavit dated 16.08.2021 disclosing that she has compromised the matter with petitioner and she would have no objection, if FIR is quashed as both the parties have no grudge against each other. As per compromise, the petitioner was supposed to pay a sum of Rs.3.3 Lacs to the complainant. The custody of children was handed over to the petitioner. In terms of the compromise and statements made by both sides, decree of divorce dated 17.08.2021 came to be passed whereby Family Court, Kaithal ordered dissolution of marriage of the petitioner with complainant.

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

3. Notice of motion was issued to respondent No.2/complainant, however, as per office report, it has received back because respondent No.2 is not residing at the given address.

4. On being confronted with aforesaid fact, learned counsel for the petitioner would submit that complainant has got remarried and he is not aware about address of her new matrimonial home.

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

6. The conceded position emerging from the record is that petitioner and complainant solemnized marriage, two children were born from this marriage, however, personal issues overpowered institution of marriage entailing divorce by mutual consent.

7. Learned State counsel on instructions from ASI Padam Singh submits that respondent-State has no objection if FIR and consequent proceedings, in view of compromise, are quashed.

8. 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."

9. From the perusal of the record, affidavit of complainant 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.

10. In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed. FIR No.75 dated 17.05.2019 (Annexure P-1) under Section 498-A of IPC registered at Women Police Station, Sector 17, Chandigarh and all consequential proceedings arising therefrom, are quashed qua the petitioner.

Since, there is no representation on behalf of respondent No.2/complainant, she is at liberty to move an appropriate application if something survives.

(JAGMOHAN BANSAL)
JUDGE

28.03.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*