

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

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CRM-M-24053-2022

Date of Decision: 12.01.2023

Kapil**...Petitioner****Versus****State of Haryana and Another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Gaurav Gupta, Advocate for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

Mr. Gaurav Singla, 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, is seeking quashing of FIR No.0174 dated 27.09.2020 (Annexure P-1) under Sections 323/34/377/498-A/406 & 506 of IPC registered at Police Station Women Police Station, NIT Faridabad, along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner and respondent No.2 are *ad-idem* that decree of divorce has already been passed.

In terms of order dated 30.05.2022 of this Court, Judicial Magistrate, First Class, Faridabad, has submitted his report dated 02.07.2022. The relevant extracts of the report are as below:-

“i) the number of accused arraigned in the FIR and how many have appeared before it and have made statement and whether any accused is absconding/P.O.

Report: As per statement of IO the present FIR was lodged on the complaint of Smt. Neha Sharma against the against Kapil, Rajender Kumar, Meenakshi and Neha. During investigation, accused Rajender Kumar, Meenakshi and Neha were found innocent. Challan against the accused Kapil Maggo only was filed. It is submitted that accused Kapil Maggo appeared and his statement was recorded and he is not absconding/P.O. in the case.

ii) the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise:-

Report: As per statement of IO, the present case was lodged on the complaint of Smt. Neha Sharma. Complainant Neha Sharma appeared in the Court and made statement in support of compromise.

(iii) the stage of trial/proceedings:-

Report: The present case is pending at the stage of prosecution evidence. No PW has been recorded till now.

(iv) If the compromise is genuine, voluntary and out of free will of the parties:

Report: In the considered opinion of the undersigned, the compromise so effected is for the amicable settlement of the parties and without any external pressure, coercion or force and is a valid compromise.

(v) Whether any other criminal case is pending against the accused:

Report: In the present case, as per statement of accused, no other criminal case is pending against him.”

Learned State counsel and learned counsel for respondent No.2 would submit that they have 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 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.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. 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 dissolution of marriage, the present petition deserves to be allowed and accordingly is

allowed. FIR No.0174 dated 27.09.2020 (Annexure P-1) under Sections 323/34/377/498-A/406 & 506 of IPC registered at Police Station Women Police Station, NIT Faridabad, along with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(JAGMOHAN BANSAL)
JUDGE

12.01.2023
Mohit Kumar

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