

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-39957-2022 (O&M)

Date of order: 13.07.2023

Darshan Singh & Others

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sarju Puri, Advocate
for the petitioners.

Mr. Jashanpreet Singh, DAG Punjab.

Nidhi Gupta, J.

The prayer in this petition is for quashing of FIR No.32 dated 11.06.2011 (Annexure P-1) under Sections 406 and 498-A IPC registered at Police Station City Banga, District Shaheed Bhagat Singh Nagar (Nawanshahr) and all consequential proceedings arising therefrom on the basis of compromise dated 05.09.2011 (Annexure P-2) arrived at between the parties.

Mr. Vijay Kumar, Advocate puts in appearance on behalf of respondent No.2 and files Power of Attorney which is taken on record. Learned counsel for respondent No.2 submits that earlier counsel had filed Memorandum of Appearance and 'no objection' was not required as in any event, earlier counsel was unreachable and has probably gone abroad and is no longer in practice.

Vide order dated 05.09.2022 this Court had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 05.09.2022 with regard to the compromise dated 05.09.2011 (Annexure P-2).

In terms of the order dated 05.09.2022 passed by this Court parties have appeared before the Court of Ms. Radhika Puri, Judicial Magistrate, 1st Class, Shaheed Bhagat Singh Nagar and as per her report dated 28.02.2023 submitted to this Court, both the parties have got recorded their respective statements in Court.

A perusal of the above said report would show that the petitioners and respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offenders in the present case and all the accused are party to the compromise. It is further submitted that Rs.10 lakh has been given to respondent No.2 and marriage between the parties stands dissolved in 2011 by mutual divorce in Australia only.

Learned State Counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in

the interest of all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the Illaqa Magistrate, this Court finds that the matter has been amicably settled between the petitioners and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in **“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of **“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543**, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.32 dated 11.06.2011 (Annexure **P-1**) under Sections 406 and 498-A IPC registered at Police Station City Banga, District Shaheed Bhagat Singh Nagar (Nawanshahr) along with all other consequential proceedings arising therefrom on the basis of compromise, are ordered to be quashed qua the petitioners.

Petition stands disposed of.

13.07.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No