

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

256

CRM-M-42516-2022 (O&M)

Date of decision: 10.05.2023

Manoj Kumar and others

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Onkar Rai, Advocate for the petitioners

Mr. Kunal Vinayak, AAG Punjab

Ms. Harmanjeet Kaur, Advocate for

Mr. Harsh Chopra, Advocate for respondent No.2

AMAN CHAUDHARY. J.

1. This is 2nd petition filed under Section 482 of Cr.P.C. for quashing of FIR No.119 dated 29.05.2019, registered under Sections 307, 325, 323, 149 (Sections 120-B and 34 IPC added later on) at Police Station City Phagwara, District Kapurthala, and all other consequential proceedings arising therefrom on the basis of the compromise dated 07.04.2022, Annexure P-2.

2. Learned counsel contends that the dispute between the parties was a matrimonial one. The incident took place when the complainant-respondent No.2 was at her maternal house and had fallen while talking to her husband on phone. The FIR came to be registered after a delay of more than 2 months and the matter now stands compromised. A petition under Section 13-B of the Hindu Marriage Act, was also filed wherein the statements of the parties have been recorded and the same is pending.

3. Learned State counsel on instructions from SI Baljinder Singh as also learned counsel for complainant-respondent No.2 submits that the statement of

complainant-respondent No.2 was recorded and she has stated that she is completely fine and is residing with her parents and has no objection in case the FIR against the petitioners is quashed.

4. Heard.

5. It is apposite to make a reference to the judgment of Hon'ble The Supreme Court in case of **B.S. Joshi vs. State of Haryana**, (2003) 4 SCC 675, wherein it was observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. It was laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

6. In the case of **Gian Singh vs. State of Punjab and another**, (2013) 1 SCC (Cri) 160, Hon'ble The Supreme Court 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 paras read thus:-

“61. 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. XXX---XXX

In other words, the High Court must 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 despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court

shall be well within its jurisdiction to quash the criminal proceedings.”

7. Hon'ble The Supreme Court in case of **Yogendra Yadav vs. State of Jharkhand**, (2014) 9 SCC 653, held that “Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

8. In view of the judgments referred to above and perusing the affidavit of respondent No.2, this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

9. Resultantly, the present petition is allowed and FIR No.119 dated 29.05.2019, registered under Sections 307, 325, 323, 149 (Section 120-B and 34 IPC added later on) at Police Station City Phagwara, District Kapurthala and all other consequential proceedings arising therefrom, are quashed qua the petitioners on the basis of the compromise dated 07.04.2022.

(AMAN CHAUDHARY)
JUDGE

10.05.2023
S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No