

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

123+269

CRM-40156-2023 in/and
CRM-M-44015-2023
Date of decision: 13th December, 2023

Ekant Kaushal

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arun Gupta, Advocate for
Mr. Rakesh Gupta, Advocate for the petitioner.
Mr. Kunwarbir Singh, AAG, Punjab.
Mr. Neeraj Kumar, Advocate for respondent No.2.

MANISHA BATRA, J (ORAL):-

CRM-40156-2023

This application has been filed for amendment in the Head note and prayer clause of the main petition to the extent of adding the offence u/s 201 of IPC which was added later on in place of Section 354-D of IPC which has been inadvertently and wrongly mentioned in the petition.

For the reasons mentioned in the application, the same is allowed. Amended petition is ordered to be taken on record.

Main case

The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No. 24, dated 17.03.2019 registered under Section(s) 406, 498-A of IPC, 1860 and Section 201 of IPC added later on at Police Station Women, District Patiala, (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of a

compromise which was arrived at between the parties during the course of a petition filed under Section 13-B of Hindu Marriage Act, 1955 for dissolving their marriage by a decree of divorce.

2. The aforementioned FIR had been lodged by respondent No.2/complainant and investigation was commenced thereon. .

3. It is submitted by learned counsel for the petitioner as well as respondent No.2 that at the time of recording statements in the first motion, respondent No.2 had agreed to dissolve her marriage with petitioner and the parties had undertaken to not to initiate any civil or criminal action against each other and also to withdraw all the litigation either civil or criminal as pending between them. Annexure P-2 (colly) are copies of statements recorded by respondent No.2 as well as petitioner No.1 in this regard.

4. On the basis of the compromise shown to be effected by way of making statements (Annexure P-2, colly), the petitioner has prayed for quashing of the FIR and all the subsequent proceedings on the ground that continuation of such proceedings would be a futile exercise.

5. This Court vide order dated 04.09.2023 had directed the parties to appear before the trial Court/Illaqa Magistrate for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The trial Court/ Illaqa Magistrate was also directed to send his/her report along with the said statements.

6. Pursuant to the aforesaid order, The Judicial Magistrate, Ist Class, Patiala has sent report dated 09.10.2023 to this Court along with the statements of respondent No.2 complainant- Mohini Kaushal, petitioner and Investigating Officer ASI Mander Singh as recorded on 28.09.2023.

7. On the basis of these statements, it is submitted by learned

Magistrate that the compromise effected between the parties is genuine, out of free Will and without any pressure or coercion. It is also mentioned in the report that apart from the petitioners, there is no other accused in the FIR and that the accused have not been declared proclaimed persons in this case.

8. I have heard learned counsel for the parties and besides perusing the report by learned Judicial Magistrate, have also perused the record.

9. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the abuse of process of law or otherwise to secure the ends of justice. Such power is not confined to matrimonial disputes alone. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases relating to offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The High Court is required to 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 and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the

criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as *Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543* and *Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466*.

10. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No. 24, dated 17.03.2019 registered under Section(s) 406, 498-A of IPC, 1860 and Section 201 of IPC added later on at Police Station Women, District Patiala, (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of statements recorded by them in proceedings initiated under Section 13-B of the Act, 1955 as well as the statements recorded by them before the trial Court on 28.09.2023.

11. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

[MANISHA BATRA]
JUDGE

13th December, 2023

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*