

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**263****CRM-M No.41897 of 2019****Date of Decision : 19.07.2023**

Vishnu Mittal

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Karan Bansal, Advocate for
Mr. Achin Gupta, Advocate for the petitioner.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

None for respondent No.2.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.57 dated 20.04.2018 registered under Sections 498-A of the Indian Penal Code, 1860 (Section 406 IPC was added later on) at Police Station City Kotkapura, District Faridkot and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 18.09.2019 (Annexure P-2).

2. Vide order dated 07.04.2021, the parties were directed to appear before the Illaqa Magistrate/Trial Court for recording of their statements with regard to the compromise. The parties thereafter appeared before the concerned Court and got their statements recorded. As per report dated 11.05.2021 received from the Judicial Magistrate Ist Class, Faridkot the statement of the complainant has been recorded wherein she has stated that the compromise has been arrived at voluntarily and out of her own free will

and without any coercion and undue influence. Statements of the parties have also been appended with the report.

3. Learned counsel for the petitioner has also placed on record the decree of divorce dated 06.12.2019 passed under Section 13-B of the Hindu Marriage Act, 1955. He has pointed out that in para 5 of the decree of divorce it has been stated that at the time of recording of the statement of Second Motion, respondent No.2 herein has stated that an amount of Rs.14,00,000/- has been received along with dowry articles from the petitioner herein.

4. Subsequent to the recording of the statements, respondent No.2 has not been putting in appearance. Notice was also issued to respondent No.2 and as per office report, father of respondent No.2 has stated that his daughter has gone to Sri Ganganagar, Rajasthan. It appears that respondent No.2 is deliberately avoiding appearance in this Court after recording of her statement, passing of decree of divorce and receiving the settlement amount.

5. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** has held as under :

“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 what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the 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. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. 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 proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. Learned counsel for the petitioner has also referred to the law laid down by this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the

proceedings to prevent abuse of law and secure the ends of justice.

7. In view of the fact that statements of the parties have been recorded and in view of the report of the Judicial Magistrate Ist Class, Faridkot, wherein it has been stated that the compromise arrived at between the parties is genuine and voluntary and without any coercion and undue influence as also the fact that the parties have since obtained the decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 and as per judgment and decree of divorce the settlement amount stands paid to respondent No.2, it would not be in the interest of justice to continue the criminal proceedings.

8. Resultantly, FIR No.57 dated 20.04.2018 registered under Sections 498-A of the Indian Penal Code, 1860 (Section 406 IPC was added later on) at Police Station City Kotkapura, District Faridkot is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 18.09.2019 (Annexure P-2).

9. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

19.07.2023

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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO