

287 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53360-2022

Date of Decision:22.02.2023

NIKHIL VERMA AND OTHERS

..... Petitioners

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Gaurav Singla, Advocate
for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Gaurav Gupta, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

On 29.11.2022 following order was passed:

“The petitioners are seeking to quash FIR No. 26 dated 25.01.2021, under sections 323, 34, 406, 498-A, 506, 354-A IPC registered at Police Station Women NIT, District Faridabad on the basis of compromise.

Learned counsel for the petitioners contend that the marriage of petitioner No.1 was solemnized with respondent No.2 on 29.06.2020 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties. The marriage of petitioner No.1 and respondent No.2 has been dissolved by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act in terms of the judgment and decree dated 29.08.2022 passed by the learned Family Court, Faridabad. A sum of Rs. 1,20,000/- has been paid to

respondent No.2 on account of permanent alimony. Respondent No.2 has withdrawn the petition under Section 125 Cr.P.C. and also the petition under Section 13 of Hindu Marriage Act. It has been further submitted that on conclusion of the investigation, the challan has been presented only against petitioner No.1 and petitioner Nos. 2 to 4 have been found to be innocent. Consequently, prayer has been made for withdrawal of the petition qua petitioner Nos. 2 to 4.

Ordered accordingly.

Notice of motion.

Mr. Karan Garg, AAG Haryana accepts notice on behalf of the State.

Adjourned to 22.02.2023.”

Mr. Gaurav Gupta, Advocate has put in appearance on behalf of respondent No.2 and filed his power of attorney. The same is taken on record.

Learned counsel for the parties are ad idem that marriage between the parties stands dissolved vide judgment and decree dated 29.08.2022 passed by Additional Principal Judge, Family Court, Faridabad. They further submit that parties before mediator, Faridabad had agreed to file quashing petition qua impugned FIR. The decree of divorce has been passed in view of compromise dated 07.03.2022 arrived at between the parties. The relevant extracts of compromise read as under:

“That Neelam complainant has lodged a FIR No.026 of 25.01.2021 under Section 323/354A/406/498A/506/34 of IPC P.S. Women NIT, Faridabad in which all the accused are on bail title as State V/s Nikhil pending in the court of

Sh. Sumit Turukiya for 29.04.2020 for PWs. That both the parties will file a quashing petition under Section 482 Cr.P.C. in the Hon'ble High Court and Neelam will give her statement if required in the Hon'ble High Court of Punjab & Haryana at Chandigarh and also in the Court of Ilaka Magistrate and all the expenses regarding quashing petition in the Hon'ble High Court will be bear by the Nikhil IInd party.”

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.](#) and [Laxmi Narayan \(Supra\)](#).

14. 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 between 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, decree of divorce 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, the 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, the present petition deserves to be allowed and accordingly allowed.

FIR No. 26 dated 25.01.2021, under Sections 323, 34, 406, 498A, 506 and 354A of IPC, registered at Police Station Women NIT, District Faridabad (Annexure P-1), and all other consequential proceedings arising therefrom are quashed *qua* the petitioner(s).

(JAGMOHAN BANSAL)

JUDGE

22.02.2023

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