

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-9534-2024

Date of Decision: 03.05.2024

Gulshan Kumar and another

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vipin Kumar, Advocate for the petitioners.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Shadab Ahmad, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioners who are husband (petitioner No. 1) and brother-in-law/*Devar* (petitioner No. 2) of complainant/respondent No. 2 have filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 0105 dated 24.05.2017 (Annexure P-1) registered under Sections 406, 498-A and 323 IPC at Police Station Gobindgarh Mandi, Fatehgarh Sahib and all the consequential proceedings arising therefrom, on the basis of compromise dated 19.12.2023 (Annexure P-2).

Pursuant to the order dated 28.02.2024 passed by this Court, the parties appeared before the learned Judicial Magistrate Ist Class, Amloh, to get their statements recorded. Learned Judicial Magistrate Ist Class, Amloh, has submitted her report along with copies of statements of the parties vide letter dated 22.03.2024 duly forwarded by the learned District and Sessions Judge, Fatehgarh Sahib.

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 genuine, voluntary and out of free will and without any coercion or undue influence.

Learned counsel for the petitioners, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. Marriage of the petitioner No. 1 with complainant/respondent No.2 was solemnized on 29.11.2009 and two daughters were born out of the said wedlock. Due to temperamental differences, the parties could not cohabit together and started residing separately. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into compromise dated 19.12.2023 (Annexure P-2) according to which, both the parties have agreed not to proceed further with the FIR in question. It is also submitted that both the parties have reconciled and are living together as husband and wife. Further, it is submitted that initially, the complaint was filed against 05 persons, however, upon investigation, challan has been filed only against the present petitioners and they have never been declared as proclaimed offender(s).

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

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

After perusing the report submitted by the learned Judicial Magistrate Ist Class, Amloh, this Court finds that the matter has been amicably settled between the petitioners and respondent No. 2. 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 proceedings 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 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 here-in-below:-

“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 here-in-above, this petition is allowed and FIR No. 0105 dated 24.05.2017 (Annexure P-1) registered under Sections 406, 498-A and 323 IPC at Police Station Gobindgarh Mandi, Fatehgarh Sahib and all the consequential proceedings arising therefrom, on the basis of compromise dated 19.12.2023 (Annexure P-2), are ordered to be quashed qua the petitioners.

03.05.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No