IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

234 CRM-M-13256-2024

Date of Decision: 01.07.2024

Jasvir Singh and another

…. Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Ramandeep Kaur, Advocate for
Mr. Monty Goyal, Advocate for the petitioners.

Ms. Rishu Madan, AAG, Punjab.

Ms. Sunita Devi, Advocate for
Mr. J.S. Thakur, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No. 49 dated 21.07.2018 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Ludhiana and all the consequential proceedings arising therefrom on the basis of compromise/petition under Section 13-B of the Hindu Marriage Act, 1955 (Annexure P-2).

Pursuant to the order dated 10.05.2024 passed by this Court, the parties have appeared before the learned Judicial Magistrate Ist Class, Ludhiana to get their statements recorded. Learned Judicial Magistrate Ist Class, Ludhiana, has submitted her report along with copies of statements of the parties vide letter dated 30.05.2024 duly forwarded by the learned District and Sessions Judge, Ludhiana.

RISHU KATARIA
2024.07.05 09:32
I attest to the accuracy and
authenticity of this
order/judgment.

A perusal of the above said report would show that the petitioner No. 2-Lakvir Singh and respondent No. 2 have appeared and suffered statements with respect to the compromise which have been found to be genuine, voluntary and without any coercion and undue influence. It is pertinent to mention here that statement of petitioner No. 1-Jasvir Singh/husband of respondent No. 2-complainant has been recorded through his brother-Special Power of Attorney Holder/ petitioner No. 2 herein.

Learned counsel for the petitioners*, inter alia,* submits that the present FIR emanates from the matrimonial dispute between the parties. It is submitted that petitioner No.1 is the husband and petitioner No.2 is brother-in-law of the complainant/respondent No.2 herein. Learned counsel submits that since petitioner No.1 is residing abroad, he is represented through his Special Power of Attorney holder Sh. Lakhvir Singh. Marriage of the petitioner No.1 with complainant/respondent No.2 was solemnized on 13.04.2012 and no child was born out of the said wedlock. Due to temperamental differences, the parties could not cohabit together and started residing separately since November 2016. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into compromise and by mutual consent filed petition under Section 13-B of Hindu Marriage Act, according to which, both the parties have agreed not to proceed further with the FIR in question. It is also submitted that the said petition under Section 13-B of Hindu Marriage Act has already been granted vide decree of divorce dated 14.1.2021 (Annexure P-2). Learned counsel submits that the matter

RISHU KATARIA
2024.07.05 09:32
I attest to the accuracy and
authenticity of this
order/judgment.

has been settled in a total sum of Rs.5,50,000/-, out of which only Rs.90,000/- is yet to be paid to the complainant and the same will be paid to the complainant on the date of recording of statements with regard to the compromise before the learned trial Court/Illaqa Magistrate. It is further submitted that both the petitioners have been named in the FIR and have never been declared as proclaimed offenders.

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, Ludhiana, 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.

RISHU KATARIA
2024.07.05 09:32
I attest to the accuracy and
authenticity of this
order/judgment.

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. 49 dated 21.07.2018 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Ludhiana and all the consequential proceedings arising therefrom on the basis of compromise/petition under Section 13-B of the Hindu Marriage Act, 1955 (Annexure P-2), are ordered to be quashed qua the petitioners.

01.07.2024 **(NIDHI GUPTA)**
rishu **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

RISHU KATARIA
2024.07.05 09:32
I attest to the accuracy and
authenticity of this
order/judgment.