

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

276 CRM-M-20113-2022
Date of Decision : March 20, 2024

NEHA SHARMA -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vivek Gupta, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G, Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as cast under Section 482 of the Cr.P.C., the petitioner craves for the hereinafter extracted relief(s):-

“Quashing of Kalandra dated 15.03.2021 (Annexure P-1), under Section 182 of the IPC, registered at P.S. Civil Lines, Patiala, along with all the consequential proceedings arising therefrom, on the basis of Compromise.”

2. It would be pertinent to record here that the Kalandra (Annexure P-1) is the outcome of a matrimonial dispute *inter se* the petitioner and the respondent No.2, which stands resolved, inasmuch as, the parties concerned have instituted a petition under Section 13-B of the Hindu Marriage Act before the learned Family Court concerned, thereby seeking dissolution of their marriage with mutual consent. Even the statements of the parties concerned in the petition (*supra*), under first motion, have already been recorded, wherein, they have admitted the factum *qua* the matter being amicably resolved.

3. Upon an affirmative response from the learned counsel for the respondent No.2 *qua* compromise, a Co-ordinate Bench of this Court had, through an order drawn on 24.05.2023, upon the instant petition, directed the parties to appear before the trial Court/Illaq Magistrate concerned, for getting their respective statements recorded *qua* authenticity of the compromise. Moreover, the trial Court/Illaq Magistrate concerned was also directed to send a report in the above regard.

4. Consequent to the making of the directions (*supra*), the parties appeared before the Judicial Magistrate 1st Class, Patiala and got their respective statements recorded, thereby authenticating the compromise. Accordingly, in compliance of the directions (*supra*) of this Court, a Report has been received from the Judicial Magistrate 1st Class, Patiala, wherein, a satisfaction has been recorded by the Magistrate concerned *qua* the compromise being drawn in a genuine and voluntary manner, without any coercion or undue influence.

5. I have heard counsel for the parties and gone through the case file.

6. Though the Kalandra (Annexure P-1) has been ordered to be registered by the S.S.P. concerned, after conducting inquiry upon a complaint presented by respondent No.2, however, neither the officer concerned is a party to the compromise effected inter se the petitioner and respondent No.2, nor is arrayed as a party in the instant petition. Nonetheless, since the Kalandra (Annexure P-1) is the outcome of a matrimonial dispute, which has now been resolved, through mutual separation of the petitioner and respondent No.2, through passing of a

decree of divorce, therefore, keeping in view the betterment of both the families and the society, this Court deems it just and appropriate to bury all the disputes inter se the petitioner and the respondent No.2, through granting the relief(s), as claimed herein.

7. Gainful reference, in the above regard, can be made to the judgment rendered by the Hon'ble Supreme Court, in the case of “*Narinder Singh and others Vs. State of Punjab and other*”, (2014) 6 Supreme court cases 466. The relevant paragraph of this judgment is extracted hereinafter:-

29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in a such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly,

for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the Settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this

stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

8. The above principle gets reiterated in the case of “***State of Madhya Pradesh vs. Laxmi Narayan and others (2019)***”, 5 Supreme court cases 688, wherein, the Hon’ble Supreme Court has held as under:-

“15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non- compoundable

offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under

investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove”.

9. Considering the facts of the present case as well as the principle of law laid down by Hon'ble Supreme Court, it would be futile to drag the present proceedings, as continuation of the criminal proceedings, despite settlement and compromise, would amount to abuse of process of law. Accordingly, in exercise of power under Section 482 of the Cr.P.C., this Court **allows** the instant petition. The Kalandra dated 15.03.2021 (Annexure P-1), under Section 182 of the IPC, registered at P.S. Civil Lines, Patiala, along with all the consequential proceedings arising therefrom, is hereby quashed, on the basis of Compromise, subject to cost of Rs.5,000/- being forthwith deposited by the petitioners with the District Legal Services Authority concerned.

March 20, 2024

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(KULDEEP TIWARI)

JUDGE

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