

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

134

CRM-M-21088-2023 (O&M)
Date of decision: 08.02.2024

Gulab Singh and another ...Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

Mr. Arjun Lakhanpal, Addl. A.G., Punjab.

Mr. J. P. Dhull, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No. 146 dated 05.04.2018, registered under Section 354-A of IPC at Police Station Civil Lines District Kaithal (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise dated 24.02.2023 (Annexure P-2) arrived at between the parties.
2. The aforementioned FIR had been lodged by respondent No.2/complainant and investigation was commenced thereon.
3. It is submitted by counsel for the petitioners that a compromise had been arrived at between the parties and they had resolved their *inter se* dispute, which was reduced into writing as compromise dated 24.02.2023,

annexed with the present petition as Annexure P-2. On the basis of the said compromise, the petitioners had prayed for quashing of the aforesaid FIR and all the subsequent proceedings on the ground that continuation of such proceedings would be a futile exercise. Vide order dated 12.07.2023, learned counsel for respondent No. 2/complainant had admitted to the factum of compromise between the parties, in pursuance of which, this Court had directed the parties to appear before the Illaqua Magistrate/trial Court for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The Illaqua Magistrate/trial Court was also directed to send his/her report along with the said statements.

4. Pursuant to the aforesaid order, the Chief Judicial Magistrate, Kaithal has sent report vide endorsement No. 849 dated 19.08.2023 to this Court along with the statement of respondent No. 2 as well as that of petitioner Gulab Singh, recorded on 16.08.2023. It has been reported by him that in compliance with the order dated 12.07.2023, complainant Saraswati and petitioner Gulab Singh had appeared before him on 16.08.2023 but the complainant had stated that since petitioner Gulab Singh had misbehaved with her when she was present in Court on 14.08.2023, she did not want to compromise the matter. However, the Chief Judicial Magistrate has reported that no such incident had happened and it was on the instigation of one Dhoop Singh that the complainant had backed out from the compromise.

5. Learned counsel for the petitioners has submitted that there was valid compromise between the parties, which arrived at between them without any pressure or coercion upon the complainant and now she cannot back out from the same. It is further submitted that even a petition has been filed by the husband of complainant under Section 13-B of the Hindu

Marriage Act, wherein the first motion statements have been recorded before the Family Court. He has relied upon a judgment of Hon'ble Supreme Court rendered in ***Mohd. Shamim vs. Smt. Nahid Begum : 2005 (1) RCR (Criminal) 697***, wherein it has been held that if a party after accepting the amount in terms of a settlement backs out from the same later on, the continuation of criminal proceedings would be an abuse of process of Court. Reliance is also placed upon ***Anand Kumar vs. State of Haryana : 2018 (4) RCR (Criminal) 457*** and ***Ruchi Agarwal vs. Amit Kumar Agrawal : 2004 (4) RCR 949***, wherein similar view has been taken by this Court as well as by Hon'ble Supreme Court, respectively.

6. Learned State counsel has not disputed the factual position. Learned counsel for the complainant/respondent No. 2 has submitted that he has instructions to say that respondent No. 2 does not want to contest the present petition.

7. I have heard learned counsel for the parties and besides perusing the report sent by learned Chief Judicial Magistrate, have also perused the record.

8. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the abuse of process of law or otherwise to secure the ends of justice. Such power is not confined to matrimonial disputes alone. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent

jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases relating to 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. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as ***Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543*** and ***Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466***.

9. In view of the proposition as settled in the aforementioned cases and also in view of the ratio of law as laid down in aforesaid judgments relied upon by the petitioners, this Court finds that even if the complainant has backed out from the compromise, which was effected between the parties with her free will and even her counsel has admitted the same before this Court on 12.07.2023, the continuation of proceedings would be an abuse process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No. 146 dated 05.04.2018, registered under Section

354-A of IPC at Police Station Civil Lines District Kaithal (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of the aforesaid compromise.

08.02.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No