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Date of decision: 08.05.2024

...Petitioners

...Respondents

Mr. Dhawaljeet Dutta, Advocate
for respondent No. 3/victim.

dated 05.04.2013, registered under Sections 406, 498-A of IPC at Police

Station Batala, District Gurdaspur along with all the consequent proceedings arising therefrom including the judgment dated 20.11.2018 (*Annexure P-2*), passed by the Court of Sub Divisional Judicial Magistrate, Batala, whereby the petitioners had been convicted for commission of offence punishable under Section 498-A of IPC, on the basis of the compromise arrived at between the parties.

3. Learned counsel for the petitioners has submitted that the parties by making amicable settlement have resolved their *inter se* dispute and therefore, the FIR in question as well as the judgment of conviction dated 20.11.2018, passed by the trial Court, along with all the subsequent proceedings having emanated therefrom may be quashed.

4. This Court vide order dated 18.04.2023 had given directions to the parties to appear before the Illaqua Magistrate/Duty Magistrate for recording of their statements qua genuineness/correctness of the compromise and that the compromise was not the result of any fraud or misappropriation.

5. Pursuant to the aforesaid orders, the Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Batala has sent a report dated 07.07.2023 to this Court along with the statements of respondent No.3/Victim Rajni as well as of the petitioners, recorded on 17.05.2023. The statement of the Investigation Officer ASI Dilbag Singh, recorded on 19.05.2023, is also attached with the report.

6. On the basis of these statements, it is submitted by learned Magistrate that the compromise effected between the parties is genuine, out of free Will and without any pressure or coercion. It is also mentioned in the report that apart from the petitioners, there is no other accused in the com-

plaint and that the present petitioners have not been declared proclaimed persons in this case.

7. I have heard learned counsel for the parties and besides perusing the report by learned 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.

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 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***. Reference can also be made to another judgment rendered in ***Ramawatar vs.***

State of Madhya Pradesh, 2021 CrL L.R. (SC) 1527, wherein, it was

observed that the powers under Article 142 or under Section 482 Cr.P.C., are exercisable in post-conviction matters only where an appeal is pending before one or the other Judicial forum. This is on the premise that an order of conviction does not attain finality till the accused has exhausted his/her legal remedies and the finality is sub-judice before an Appellate Court. The pendency of legal proceedings, be that may before the final Court, is sine-qua-non to involve the superior court's plenary powers to do complete justice. Conversely, where a settlement has ensued post the attainment of all legal remedies, the annulment of proceedings on the basis of a compromise would be impermissible. Such an embargo is necessitated to prevent the accused from gaining an indefinite leverage, for such a settlement/compromise will always be loaded with lurking suspicion about its bona fide. It was also observed that the purpose of these extra-ordinary powers was not to incentivize any hollow-hearted agreements between the accused and the victim but to do complete justice by effecting genuine settlement(s).

9. Reliance can also be placed upon *Sube Singh and another vs. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102*, wherein a Division Bench of this Court has held that even after the conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers under Section 482 Cr.P.C., can compound the offence. Accordingly, the judgment of conviction and order of sentence passed by the trial Court was set aside and it was directed that the appeal, pending before the lower appellate Court, would be rendered infructuous. Reference can also be made to the judgment rendered in

K. Subramanian vs. R. Rajathi Rep. By P.O.P. Kaliappan, 2010 (1) RCR

(Criminal) 184, whereby, on the basis of the compromise entered into between the parties, Hon'ble Supreme Court has set aside the judgment of conviction and order of sentence passed by the trial Court and the accused was acquitted of the charge, framed against him under Section 138 of the Negotiable Instruments Act. With these broad submissions, it is urged that the present petition deserves to be allowed.

10. In view of the proposition of law as settled in the aforementioned cases, this Court finds that 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 the FIR in question as well as the aforesaid judgment of conviction and quantum of sentence as imposed upon the petitioners would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C.

11. Accordingly, the petition is allowed and FIR No. 78 dated 05.04.2013 (*Annexure P-1*), registered under Sections 406, 498-A of IPC at Police Station Batala, District Gurdaspur along with all the consequent proceedings arising therefrom including the judgment dated 20.11.2018 (*Annexure P-2*) and order on quantum of sentence of the even date, passed by the Court of Sub Divisional Judicial Magistrate, Batala, whereby the petitioners had been convicted for commission of offence punishable under Section 498-A of IPC and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of compromise entered into between them. If any appeal is pending before the

lower appellate Court, the same shall be disposed of accordingly. Bail/surety bonds of the petitioners be also discharged.

12. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

08.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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