

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

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CRM-M-45504-2017 (O&M)
Date of decision: 20.01.2024

Sarwan Ram and others ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Kulwinder Kaur, Advocate for
Mr. Rajeev K. Kapila, Advocate
for the petitioners.

Mr. P. S. Pandher, AAG, Punjab.

Ms. Manjeet Kaur, Advocate for
Ms. Suminderdeep Kaur, Advocate
for respondent No.2/complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioners under Section 482 of Code of Criminal Procedure for quashing of Criminal Complaint No. 102 dated 28.01.2013, filed under Sections 498-A, 406, 420, 506, 120-B read with Section 34 of the IPC (Annexure P-1), pending before the Court of Judicial Magistrate First Class, Hoshiarpur and all the subsequent proceedings arising therefrom, on the basis of compromise deed dated 09.08.2017 (Annexure P-5), including order dated 20.07.2017 (Annexure P-3), whereby the petitioners had been declared proclaimed absconders.
2. The aforementioned complaint had been filed by respondent No.2/complainant alleging therein that she was married to petitioner

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No. 1-Sarwan Ram on 01.04.1994 according to Sikh rites and ceremonies. Sufficient dowry including gold ornaments and cash amount was given in her marriage as dowry. However, the complainant was not treated well by her in-laws. Her husband raised a demand of a sum of Rs. 5 Lacs and a car on the pretext that sufficient dowry had not been given in the marriage. Even on 15.07.1995, the accused persons demanded an amount of Rs. 5 Lacs on the pretext of going abroad, from the parents of the complainant and when they refused to give the money, the complainant was extended severe beatings and was turned out of her matrimonial house. On 15.08.1995, the accused persons came to her parental house and took her by assuring to keep her in a proper manner. However, even thereafter, they did not mend their ways and kept on making demand of dowry in the shape of cash money on different pretexts and extended beatings to the complainant. With these allegations, the complainant had filed the aforesaid complaint before the Court of Judicial Magistrate First Class, Hoshiarpur. Vide order dated 18.11.2013, accused Nos. 1 to 5 (Kamaljit Kaur, Krishna Rani, Kesar Lal, Sarwan Ram and Kishan Chand) were summoned to face trial but the complaint was dismissed qua accused Nos. 6 to 8 (Aaki, Rani and Nanju) by observing that no *prima facie* case against them had been made out. However, vide order dated 08.08.2017 passed by the trial Court, at the stage of pre-charge evidence, the complainant suffered a statement before the trial Court that she had effected a compromise with the accused persons and did not want to lead pre-charge evidence. Consequently, accused Kamaljit Kaur and Krishna Rani were discharged but accused Sarwan Ram, Kesar Lal and Kishan Chand, who are the present

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petitioners, were declared proclaimed absconders on 20.07.2017 as they had not put in appearance before the trial Court.

3. The present petition has been filed by the petitioners on the grounds and it has been argued by their counsel that a compromise has been arrived at between the parties and they have resolved their *inter se* dispute, which was reduced into writing as compromise dated 09.08.2017 annexed with the present petition as Annexure P-5. It is argued that even petitioner No. 1 and the complainant had filed a divorce petition under Section 13-B of the Hindu Marriage Act for dissolution of their marriage, wherein the statements of the parties had been recorded and the complainant had admitted to the factum of compromise entered into between the parties. On the basis of said compromise, the petitioners have prayed for quashing of the aforesaid complaint as well as order dated 20.07.2017, declaring them proclaimed absconders, and all the subsequent proceedings emanating therefrom on the ground that continuation of such proceedings would be a futile exercise.

4. Learned counsel for respondent No. 2/complainant has admitted to the factum of compromise entered into between the parties and has stated that the complainant has no objection if the present petition is allowed and the impugned complaint as well as order dated 20.07.2017, declaring the petitioners as proclaimed absconder, are quashed by this Court.

5. This Court vide order dated 19.01.2018, had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court was also directed to send his/her report along with the said statements.

6. Pursuant to the aforesaid order, the Judicial Magistrate Ist Class, Hoshiarpur has sent report vide receipt No. 360 dated 12.07.2018 to this Court along with photocopies of the statements of respondent No.2/complainant-Radha Rani, and joint statement of the petitioners/accused recorded on 09.02.2018.

7. 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 were two more accused, who had already been discharged by the trial Court on the basis of the compromise but since the present petitioners could not appear before it, they had been declared proclaimed absconder on 20.07.2017 and they were not discharged. It is also reported that the complainant has stated that she has no objection if the complaint as well as order dated 20.07.2017 are quashed qua the petitioners.

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

9. 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

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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.*

10. In view of the proposition 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 petitioner by quashing of the complaint would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. This Court is also of the opinion that the ends of justice would be met in putting to rest the ongoing legal battle between the parties and hence, by exercising the power under Section 482 Cr.P.C., order dated 20.07.2017, by virtue of which, the

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petitioners had been declared proclaimed absconders, is ordered to be quashed as no useful purpose would be served, even otherwise as the remaining accused already stand discharged and the chances of the conviction of the petitioners are bleak even if they are ordered to be put to trial. Further, on the basis of the compromise dated 09.08.2017 (Annexure P-5) and statements of the parties, the Criminal Complaint No. 102 dated 28.01.2013, filed under Sections 498-A, 406, 420, 506, 120-B read with Section 34 of the IPC (Annexure P-1), which was pending before the Court of Judicial Magistrate First Class, Hoshiarpur, and all the subsequent proceedings arising therefrom, is also ordered to be quashed.

11. 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.

20.01.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>