

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

265

CRM-M-23403-2024

Date of Decision: 22.07.2024

Dev Raj Ex Sarpanch and another

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ritesh K. Sharma, Advocate for the petitioners.

Ms. Rishu Madan, AAG, Punjab.

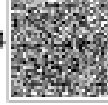
Mr. Manoj K. Sharma, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

Vakalatnama filed on behalf of respondent No. 2-complainant is taken on record.

The petitioners have filed the present petition under Section 482 Cr.P.C., for quashing of Complaint Case bearing No. Comi-1630/2018 dated 02.07.2018 (Annexure P-1) titled as 'Joginder Kaur vs. NRI Surinder Jit etc.', filed under Sections 420, 498-A, 406, 376 and 120-B IPC, pending adjudication before the learned Chief Judicial Magistrate, Hoshiarpur and all the consequential proceedings arising therefrom including the summoning order dated 31.01.2019 (Annexure P-2), on the basis of compromise deed dated 10.02.2023 (Annexure P-3).

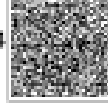
Learned counsel for the petitioners, *inter alia*, submits that



the present FIR emanates from the matrimonial dispute between the parties. Respondent No. 2-complainant/mother of victim-Parveen Banga, had filed the impugned Criminal Complaint (Annexure P-1) against 06 persons, namely, (1) NRI Surinder Jit, (2) Swaran Kaur, (3) Dev Raj (petitioner No. 1 herein), (4) Paramjit, (5) Jaswinder Kaur and (6) Sukhram (petitioner No. 2 herein). However, accused, namely; (1) NRI Surinder Jit, (4) Paramjit and (5) Jaswinder Kaur are residing abroad. During the pendency of the complaint, better sense has prevailed between the parties and the matter stands compromised partially between respondent No. 2-complainant and accused Nos. (2) Swaran Kaur, (3) Dev Raj (petitioner No. 1 herein) and (6) Sukhram vide compromise deed dated 10.02.2023 (Annexure P-3). After compromise, accused No. (2)-Swaran Kaur, died on 05.05.2024. Copy of her death certificate is also appended with the report received from the learned trial Court. Thus, the instant petition for quashing has been filed only on behalf of accused Nos. (3) and (6), namely, Dev Raj and Sukhram. It is also submitted that both the petitioners have never been declared as proclaimed offender.

Pursuant to the order dated 13.05.2024 passed by a co-ordinate Bench of this Court, the parties appeared before the learned Judicial Magistrate Ist Class, Hoshiarpur, to get their statements recorded. Learned Judicial Magistrate Ist Class, Hoshiarpur, has submitted her report along with copies of statements of the parties vide letter dated 17.07.2024 duly forwarded by the learned District and Sessions Judge, Hoshiarpur.

A perusal of the above said report would show that the



petitioners and respondent No. 2 have appeared and suffered statement with respect to the compromise, which has been found to be genuine, voluntary and is not the result of any fraud or misrepresentation and is the result of free will of the parties.

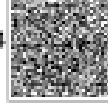
The Hon'ble Supreme Court in *Jayrajsinh Digvijaysinh Rana Versus State of Gujarat and another, 2012(4) R.C.R. (Criminal) 589*, has held that partial quashing of the FIR/Complaint is permissible on the basis of compromise.

Learned State counsel has stated that he has no objection in case the impugned Complaint (Annexure P-1) is quashed on the basis of compromise qua the petitioners. However, she submits that the impugned complaint also contains offence under Section 376 IPC, therefore, the same cannot be quashed on the basis of compromise.

Per Contra, learned counsel for the petitioners submits that vide summoning order dated 31.01.2019 (Annexure P-2), the petitioners have been summoned to face trial in the impugned complaint only under Sections 420, 498A, 494 read with Section 34 IPC.

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, Hoshiarpur this Court finds that the matter has been amicably settled between the petitioners and the complainant/respondent No. 2 herein. 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.

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.”

The High Court of Delhi in **Crl. M.C. 1741/2021, Sunil Tomar vs. The State of NCT of Delhi and another**, 2022(2) Cri. CC 179, has held that partial quashing or part quashing of FIR only qua the petitioner/accused with whom the complainant has compromised or

settled the matter can be allowed and while quashing, it must be appreciated that the petitioner/accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been settled between the parties.

In view of what has been discussed here-in-above, this petition is **allowed** and Complaint Case bearing No. Comi-1630/2018 dated 02.07.2018 (Annexure P-1) titled as ‘Joginder Kaur vs. NRI Surinder Jit etc.’, filed under Sections 420, 498-A, 406, 376 and 120-B IPC, pending adjudication before the learned Chief Judicial Magistrate, Hoshiarpur and all the consequential proceedings arising therefrom including the summoning order dated 31.01.2019 (Annexure P-2), on the basis of compromise deed dated 10.02.2023 (Annexure P-3), are ordered to be quashed qua the petitioners only.

22.07.2024

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(NIDHI GUPTA)

JUDGE

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