

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-27385-2023 (O&M)

Date of order: 27.02.2024

Raghav Thapar

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTAPresent:- Mr. Pankaj Gupta, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG Haryana.

None for respondent No.2.

Nidhi Gupta, J.

The prayer in this petition is for quashing of FIR No.97 dated 12.03.2021 (Annexure P-1) under Sections 323, 34, 406, 498-A and 506 IPC registered at Police Station Sector 5, Gurgaon; as well as Final Report dated 21.05.2021 (Annexure P2); and all consequential proceedings arising therefrom on the basis of compromise dated 11.06.2022 (Annexure P-3) arrived at between the parties.

Learned counsel for the petitioner inter alia submits that present FIR emanates from a matrimonial dispute between the parties, which was registered by the complainant/respondent No.2/wife against 4 persons including the present petitioner/husband. However, challan dated 21.05.2021 (Annexure P2) was filed only against the present petitioner and names of other persons were kept in Column No.2. However, the matter was compromised between the parties vide settlement deed dated

11.06.2022 (Annexure P3). It is further submitted that even parties have been granted divorce by learned Principal Judge, Family Court, Saket Delhi vide decree dated 17.02.2023 (Annexure P4). However, even after the compromise and divorce, respondent No.2/complainant is not fulfilling her part of the settlement and is not coming forth to withdraw the present FIR by recording her statement before the learned trial Court.

Learned State Counsel does not dispute the above said submissions made by learned counsel for the petitioner.

Perusal of order sheets shows that notice was issued in the matter on 29.05.2023, whereafter, on 26.07.2023, Ms. Pooja Chopra, Advocate had appeared on behalf of respondent No.2/complainant and filed her Memo of Appearance and undertook to file Power of Attorney within one week. On the last date of hearing i.e. 20.12.2023, Mr. Amit Sharma, Advocate had appeared on behalf of respondent No.2/complainant but he has also not filed his Power of Attorney, and hence, Co-ordinate Bench of this Court had directed issuance of notice to respondent No.2/complainant. Office report received shows that notice issued to respondent No.2 has not been received back served or otherwise. It is also reported that Memo of Appearance has been placed on record on behalf of respondent No.2/complainant. However, till date Power of Attorney has not been filed on behalf of respondent No.2/complainant. Even today there is no representation on behalf of respondent No.2/complainant. Present matter is squarely covered by law laid down by Hon'ble Supreme Court in **"Ruchi Agarwal Vs. Amit Kumar Agrawal"** Law Finder Doc ID # 78949, wherein it has been held as under:-

“A. Criminal Procedure Code, Sections 320 and 482 – Indian Penal Code, Sections 498A and 506 – Criminal and Civil litigation between husband and wife – Parties entering into compromise and getting divorce by mutual consent – Wife, however, not withdrawing FIR under sections 498A and 506 Indian Penal Code, despite compromise – FIR quashed – Wife wanted to harass her husband even after getting the relief”.

It has been mentioned in Para 6 of the settlement dated 11.06.2022 (Annexure P3) that respondent No.2/complainant/wife will co-operate in quashing of the present FIR, however, the same is not being done.

This Court has heard the learned counsel for the parties and has perused the file.

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 hereinbelow:-

“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.”

In view of what has been discussed hereinabove, this petition is **allowed** and FIR No.97 dated 12.03.2021 (Annexure **P-1**) under Sections 323, 34, 406, 498-A and 506 IPC registered at Police Station Sector 5, Gurgaon; as well as Final Report dated 21.05.2021 (Annexure P2); and all consequential proceedings arising therefrom on the basis of compromise dated 11.06.2022 (Annexure P-3) arrived at between the parties, are ordered to be quashed qua the petitioner.

Petition stands disposed of.

Pending application(s) if any also stand(s) disposed of.

27.02.2024

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No