

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

241

CRM-M-29735-2023 (O&M)

Date of Decision: 18.09.2024

Surinder Kaur and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Deepak Verma, Advocate for the petitioners.

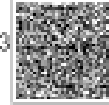
Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Shubhashish Kukreti, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioners who are mother-in-law (petitioner No. 1); brother-in-law/*Dewar* (petitioner No. 2) and husband (petitioner No. 3) have filed the instant petition under Section 482 Cr.P.C. seeking quashing of FIR No. 007 dated 12.01.2018 (Annexure P-3) registered under Sections 498-A and 406 IPC at Police Station Sadar, Phagwara, District Kapurthala and all consequential proceedings arising therefrom, including the orders dated 18.02.2020 and 29.09.2020 (Annexure P-5 and P-6, respectively), declaring petitioners No. 2 and 3 as proclaimed offenders, on the basis of compromise dated 08.04.2023 (Annexure P-9), arrived at between the parties.

On 08.01.2024, when this case was listed for hearing, following order was passed by a co-ordinate Bench of this Court:-



“CRM-54577-2023

Prayer in the present application moved on behalf of the applicants-petitioners, is for placing on record some documents as Annexures P-10 to P-12 as also exemption from filing the certified / true typed copies thereof.

Application is allowed, as prayed for, subject to all just exceptions. The documents/Annexures P-10 to P-12 are taken on record.

Registry to do the needful.

CRM-54578-2023

Prayer in the present application is for seeking a direction in favour of the petitioners as well as respondent No. 2, to appear before the trial Court for the purpose of getting their statements recorded as regards the veracity of compromise (Annexure P-9); further prayer is for stay of orders dated 18.02.2020 (Annexure P-5) & 29.09.2022 (Annexure P-6), whereby petitioner No. 2 (Jasvir Kumar @ Pamma) and petitioner No. 3 (Mukhtiar Ram) were declared as proclaimed person and proclaimed offender, respectively.

Notice of the application.

Mr. Shubham Kaushik, Assistant Advocate General, Punjab, accepts notice on behalf of respondent No. 1.

Mr. Shubhashish Kukreti, Advocate, appears and accepts notice on behalf of respondent No. 2.

I have heard learned counsel for the parties and gone through the paper-book.

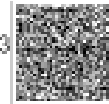
A perusal of the records shows that while passing the aforesaid orders dated 18.02.2020 & 29.09.2022 by the trial Court, strict mandatory compliance of Section 82 Cr.P.C. was never made, as such, the operation of these orders shall remain stayed.

It has been pointed out that petitioner Nos. 2 & 3 are residing abroad, thus prayer is for permitting them to either appear through their Special Power of Attorney or video-conferencing before the Court concerned.

Let the petitioners and respondent No. 2 appear before the trial Court concerned to get their statements recorded, while petitioner Nos. 2 & 3 are permitted to record their statements either through Special Power of Attorney or video-conferencing before the Trial Court/ Illaqa Magistrate/Duty Magistrate concerned on 18.01.2024 or any other date convenient to the Court, with respect to the compromise arrived at between the parties.

For awaiting report, adjourned to 13.02.2024, the date already fixed in main case.”

Pursuant to the order dated 08.01.2024 passed by a



co-ordinate Bench of this Court reproduced above, petitioner No. 1 and respondent No. 2-complainant have appeared before the learned Judicial Magistrate Ist Class, Phagwara, to get their statements recorded. It is pertinent to mention here that statements of petitioners No. 2 and 3 have been recorded through their mother/petitioner No. 1 herein being their Special Power of Attorney Holder. Learned Judicial Magistrate Ist Class, Phagwara, has submitted his report along with copies of statements of the parties vide letter dated 31.01.2024 duly forwarded by the learned District and Sessions Judge, Kapurthala.

A perusal of the above said report would show that the private parties have appeared before the learned trial Court and suffered statements with respect to the compromise which have been found to be genuine, voluntary and without any coercion and undue influence.

Learned counsel for the petitioners, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. It is submitted that petitioner No.1 is the mother-in-law; petitioner No. 2 is the brother-in-law/*Dewar*; whereas petitioner No. 3 is the husband of respondent No. 2-complainant. Marriage of petitioner No. 3 with complainant/respondent No.2 was solemnized on 27.12.2015 and one son was born out of the said wedlock, who is currently in the care and custody of respondent No. 2. Due to temperamental differences, the parties could not cohabit together and started residing separately. It is stated that *ex parte* divorce has been granted to respondent No. 2 vide judgment and decree dated 31.03.2023 (Annexure P-8). Now better sense has prevailed between the parties and in order to live peacefully, parties



have entered into compromise dated 08.04.2023 (Annexure P-9), according to which, both the parties have agreed not to proceed further with the FIR in question.

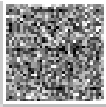
Learned State counsel has stated that he has 'no objection' in case the FIR is quashed on the basis of compromise qua the petitioners.

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, Phagwara, this Court finds that the matter has been amicably settled between the petitioners and respondent No. 2. 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.”

In view of what has been discussed here-in-above, this petition is allowed and FIR No. 007 dated 12.01.2018 (Annexure P-3) registered under Sections 498-A and 406 IPC at Police Station Sadar, Phagwara, District Kapurthala and all consequential proceedings arising therefrom, including the orders dated 18.02.2020 and 29.09.2020 (Annexure P-5 and P-6, respectively), declaring petitioners No. 2 and 3 as proclaimed offenders, on the basis of compromise dated 08.04.2023 (Annexure P-9), arrived at between the parties, are ordered to be quashed qua the petitioners.

18.09.2024
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(NIDHI GUPTA)
JUDGE

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