



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

228

CRM-M-35833-2021

Date of Decision: 19.07.2024

Preet Pal Singh Gill and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. R.S. Sidhu, Advocate for the petitioners.

Ms. Aakansha Gupta, AAG, Punjab.

Respondent No. 2 already proceeded against *ex parte*
Vide order dated 05.02.2024.

NIDHI GUPTA, J. (ORAL)

1. The petitioners who are husband (petitioner No. 1) and parents-in-law (petitioners No. 2 and 3) of respondent No. 2-complainant have filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 02 dated 09.02.2021 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station Women, District SAS Nagar, Mohali and all the consequential proceedings arising therefrom, on the basis of Compromise dated 17.08.2021 (Annexure P-2), arrived at between the parties.

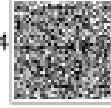
2. Learned counsel for the petitioner, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties.



Marriage of petitioner No. 1 with complainant/respondent No.2 was solemnized on 20.04.2016. No child was born out the said wedlock. Due to temperamental differences, the parties could not cohabit together and started residing separately since 25.12.2018. Now, better sense has prevailed between the parties and in order to live peacefully, parties have entered into a Compromise dated 17.08.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. The parties have also been granted divorce by way of mutual consent vide judgment and decree dated 02.04.2022, passed by the learned Principal Judge, Family court, SAS Nagar, Mohali. Learned counsel for the petitioners has supplied a copy of the aforesaid judgment and decree in Court today, which is taken on record. Further, it is submitted that initially, 04 persons were named in the FIR, however, challan has been filed only against the present petitioners. It is further submitted that the petitioners have never been declared as proclaimed offender(s).

3. Perusal of the file shows that notice of motion in the present case was issued vide order dated 01.09.2021 by a co-ordinate Bench of this Court. However, service could not be effected upon respondent No. 2-complainant for want of correct address. Thereafter, when this case was listed for hearing on 05.02.2024, following order was passed by this Court:-

“Office report shows that respondent No. 2 has been duly served, however, none has put in appearance on his



behalf. She is proceed against ex parte.

Adjourned to 19.07.2024.

Learned State counsel seeks some more time to apprise this Court about latest position in respect of the present FIR.

Adjourned to 19.07.2024.”

4. Learned counsel for the State has filed status report dated 19.07.2024 by way of an affidavit of Sh. Harsimrat Singh, Deputy Superintendent of Police, Detective, SAS Nagar, on behalf of respondent No. 1-State, in Court today, which is taken on record. A copy thereof, has been supplied to learned counsel for the petitioners. Learned counsel for the State refers to the pleadings in para 6 of the status report wherein it is admitted that petitioners have duly joined the investigation and recovery of all dowry articles have been effected from them. Challan was prepared, however, the same is yet to be presented before the learned trial Court.

5. On instructions from HC Harjit Singh, learned counsel for the State further informs that complainant/respondent No. 2 is **‘unreachable’**.

6. In view of the above, learned counsel for the petitioners submits that respondent No. 2-complainant is not intentionally coming forward for recording statement qua the compromise, despite the fact that all the disputes between the parties have been resolved and petitioner No. 1 had also made the entire payment of agreed amount of Rs.9,00,000/- to respondent No. 2-complainant towards full and final settlement and nothing remains due against either of the parties.



7. Learned State counsel has stated that she has ‘no objection’ in case the FIR is quashed on the basis of compromise qua the petitioners.

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

9. In view of the above, this Court finds that the matter has been settled between the petitioners and respondent No. 2. Petitioner No. 1 and respondent No. 2 have already been granted decree of divorce by way of mutual consent vide judgment and decree dated 02.04.2022. 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.

10. At this stage, reference may be made to the judgment of *“Ruchi Agarwal Vs. Amit Kumar Agrawal” Law Finder Doc ID # 78949; and Mohd. Shamim v Smt. Nahid Begum, Law Finder Doc Id # 81379*, wherein it has been held that in criminal/civil litigation between the husband and wife, once the parties have entered into compromise and have sought divorce by mutual consent, if the wife does not withdraw FIR under Sections 498-A and 506 IPC then it is clear that the wife wants to harass the husband even after getting the relief and in such cases FIR ought to be quashed.

11. In *Ruchi Agarwal’s case (supra)*, the wife filed SLP before the Hon’ble Supreme Court challenging the order of the Hon’ble Uttaranchal High Court whereby criminal complaint filed by the wife against the respondent husband was quashed. Facts were similar therein as



the appellant-wife had resiled from compromise. In these circumstances, the Hon'ble Supreme Court quashed the FIR registered under Sections 498A, 323 and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Para 8 of said judgment reads as under:-

“8. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No. Cr. No. 224/2003 registered in Police Station, Bilaspur, (Distt. Rampur) filed under sections 498A, 323 and 506 Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of”.

12. In **Mohd. Shamim's case (supra)** Hon'ble Supreme Court held as under: -

“A. Criminal Procedure Code, Section 320-Indian Penal Code, Section 406 and 498A - Compounding of offence - FIR under Sections 498A, 406 Indian Penal Code-Wife entering into settlement at intervention of court and accepting Rs. 2.25 lacs from husband - Wife backed out - FIR quashed - In view of conduct of wife, continuance of proceedings would be abuse of process of Court.

B. Criminal Procedure Code, Sections 320 and 482 - Indian Penal Code, Sections 498A and 406 - Compounding of offence-FIR under Sections 498A, 406 Indian Penal Code-Parties entering into settlement at the intervention of trial Judge- Wife



accepted Rs. 2.25 lacs and another sum of 50,000 to be paid at the time of quashing the FIR- Petition for quashing of FIR-Wife backed out and stated agreement and affidavit were got signed by misrepresentation - FIR quashed - In view of conduct of wife continuance of Criminal proceedings would be an abuse of process of the Court. 2004(4) RCR (Criminal) 949 (SC) relied”.

13. 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.

14. 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.”

15. In view of what has been discussed here-in-above, this petition is **allowed** and FIR No. 02 dated 09.02.2021 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station Women, District SAS Nagar, Mohali and all the consequential proceedings arising therefrom, on the basis of Compromise dated 17.08.2021 (Annexure P-2), arrived at between the parties, are ordered to be quashed qua the petitioners.

19.07.2024
rishu

(NIDHI GUPTA)
JUDGE

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