



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CRM-M-30510-2020

Date of Decision: 09.05.2024

Sorabh Popli an others

.... Petitioners

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. G.C. Shahpuri, Advocate for the petitioners.

Mr. Aditya Pal Singla, AAG, Haryana.

None for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

Petitioner No. 1-husband, petitioner No. 2 mother-in-law, petitioner No. 3-brother-in-law/*Devar* and petitioner No. 4 sister-in-law/*Nanad* of respondent No. 2-complainant have filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 0385 dated 25.12.2019 (Annexure P-1) registered under Sections 323, 406, 498-A and 506 read with Section 34 IPC at Police Station Parao Ambala Cantt. and all the consequential proceedings arising therefrom, on the basis of Compromise/Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-2), arrived at between the parties.

Vide order dated 04.03.2021, a co-ordinate Bench of this Court directed the parties to appear before the learned Illaqa Magistrate/trial Court for recording their statements qua genuineness of



compromise.

Pursuant to the aforesaid order passed by a co-ordinate Bench of this Court, report from the learned Judicial Magistrate Ist Class, Ambala, vide letter dated 02.04.2021 duly forwarded by the learned District and Sessions Judge, Ambala has been received. It was reported that on 31.03.2021, petitioners No. 1 to 3 herein have appeared before the Court for recording their statements, but their statements could not be recorded as petitioner No. 4/sister-in-law (*Nanad*) and respondent No. 2-complainant have not appeared on the said date. Thereafter, the case was adjourned to 02.04.2021, on which date all the petitioners-accused have appeared, but respondent No. 2-complainant did not appear before the Court, therefore, their statements could not be recorded.

Thereafter, when this matter was listed for hearing on 06.09.2022, following order was passed by a co-ordinate Bench of this Court:-

“Notice of respondent No. 2 could not be issued as learned counsel for the petitioners did not deposit process fee.

Learned counsel for the petitioners expresses regrets and prays for another opportunity to do the needful which in the interest of justice is granted.

Process fee be now deposited within three days after which notice be issued to respondent No. 2 for the adjourned date.

Adjourned to 19.01.2023.

Process dasti only.”

Vide order dated 20.02.2024 passed by this Court, one more opportunity was granted to the parties for recording their statement qua genuineness of compromise.

Pursuant thereto, fresh report from the learned Chief Judicial



Magistrate, Ambala, vide letter dated 18.03.2024, duly forwarded by the learned District and Sessions Judge, Ambala, has been received.

Perusal of the report shows that in compliance of the order dated 20.02.2024, the petitioners, namely, Sorabh Popli, Shama Rani, Vikas Popli and Sonam Kakkar, have appeared before the Court on 15.03.2024, for recording their respective statements qua compromise. However, respondent No. 2-complainant did not appear before the Court for recording her statement. It is reported that joint statement of the petitioners and separate statement of the Investigating Officer, have been recorded. Further, it is reported that initially, 04 persons i.e. the present petitioners were named in the FIR, however, challan has been filed only against the petitioner No. 1-husband and he has never been declared as proclaimed offender.

Learned counsel for the petitioners, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. Marriage of petitioner No. 1 with respondent No. 2-complainant was solemnized on 29.09.2011 and one son was born out of the said wedlock on 02.03.2013, who is currently in the care and custody of respondent No. 2-wife. Due to temperamental differences, the parties could not cohabit together and started residing separately since December, 2018. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into Compromise/ Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. It is further submitted that in terms of



Compromise/Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-2), the parties have also been granted the decree of divorce by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955, vide judgment and decree dated 23.09.2020 (Annexure P-6) and petitioner No. 1-husband has also paid the entire amount of Rs.10,00,000/- to respondent No. 2-complainant in terms of para No. 5 of the Compromise/Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-2), therefore, she is not coming forward, despite service. Further, it is submitted that initially, 04 persons i.e. the present petitioners were named in the FIR, however, challan has been filed only against the petitioner No. 1-husband and the remaining persons i.e. petitioners No. 2 to 4 herein have been exonerated, but the instant petition has been filed on behalf of all persons/petitioners herein named in the FIR. In support of his contentions, learned counsel for the has relied upon a judgment of this Court in ***Krishan Singh and others vs. State of Punjaab and another, Law Finder Doc Id # 1719062.***

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.

In view of the above and after perusing the report submitted by the learned Chief Judicial Magistrate, Ambala, 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



23.09.2020 (Annexure P-6) and petitioner No. 1 had also paid the entire agreed amount of Rs.10,00,000/- to the complainant/respondent No. 2 in terms of para 5 of the Compromise/Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-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.

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.

In the said case *Ruchi Agarwal (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”.

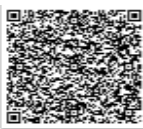
In **Mohd. Shamim (supra)** Hon’ble Supreme Court held

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”.

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. 0385 dated 25.12.2019 (Annexure P-1) registered under Sections 323, 406, 498-A and 506 read with Section 34 IPC at Police Station Parao Ambala Cantt. and all the consequential proceedings arising therefrom, on the basis of Compromise/Agreement of Mutual Settlement dated 20.01.2020 (Annexure P-2), are ordered to be quashed qua all the petitioners.

09.05.2024
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No