

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40779-2020 (O&M)
Date of Decision: 15.04.2024

Harpal Singh and others ... Petitioners

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahul Sharma, Advocate for the petitioners.

Mr. A. S. Samra, AAG, Punjab.

Mr. Akash Manocha, Advocate for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking quashing of complaint bearing No. COMI-378/2017 dated 25.05.2017 (Annexure P-1), titled as ***Shivani Sachdeva vs. Harpal Singh and others***, filed under Sections 376, 313, 323, 324, 328, 406, 498-A, 506 and 120-B of IPC along with all the subsequent proceedings arising therefrom, on the basis of the compromise dated 19.11.2020 (Annexure P-2).

2. The aforementioned complaint had been filed by respondent No. 2 against petitioner No. 1 and other accused making allegations that petitioner No. 1 had committed rape upon her on the pretext of performing marriage with her and it was on the insistence of her family members that he had performed marriage with her on 20.01.2017. She also alleged that after marriage, she had been subjected to harassment and cruelty at the hands of her husband and his other family members on

account of demand of dowry. She also levelled allegations against the accused persons of criminally misappropriating her dowry articles. However, subsequently, with the intervention of the respectable persons, respondent No. 2/complainant has amicably settled the matter with the petitioners/accused persons and a compromise deed has been reduced in writing on 19.11.2020, which is annexed as Annexure P-2 with this petition. On the basis of the said compromise, the petitioners have filed the present petition seeking quashing of the aforesaid complaint, which is pending before the Court of learned Additional Sessions Judge, Ludhiana.

3. Learned counsel for the petitioners has submitted that the complainant as well as petitioner No. 1 are major. They had physical relations with each other with their consent. They had performed marriage with each other on 20.01.2017 and had been residing happily together. However, due to some temperamental differences, the aforesaid complaint was filed by the complainant but the matter stood amicably settled between the parties, whereby it was agreed that petitioner No. 1 and respondent No. 2 would part their ways by obtaining a decree of divorce under Section 13-B of the Hindu Marriage Act. It is further submitted that no useful purpose would be served by keeping the criminal proceedings pending against the petitioners as chances of their conviction are remote and bleak. It is, therefore, urged that the petition deserves to be allowed.

4. Learned counsel for respondent No. 2 has admitted to the factum of compromise arrived at between the parties and submitted that respondent No. 2 has no objection if the aforesaid complaint is quashed by this Court on the basis of the compromise arrived at between them.

5. I have heard learned counsel for the parties and have also gone

through the material placed on record.

6. It will be relevant to mention here that vide order dated 07.12.2020 passed by this Court, the parties were directed to appear before the learned trial Court by way of moving an application for the purpose of recording of their statement with regard to the compromise/settlement. The trial Court was directed to submit its report. Thereafter, due to non-prosecution, the petition was dismissed on 22.07.2022. However, it was restored to its original number and stage on 25.08.2022. In the meantime, in compliance of directions of this Court given on 07.12.2020, a report had been submitted by the trial Court on 15.01.2021, as per which the statements of the respondent No.2 complainant as well as the present petitioners had been recorded on 12.01.2021. It is also reported that the trial Court was satisfied that the compromise between the parties was genuine and without any undue influence.

7. There are catena of judgments of Hon'ble Supreme Court whereby, parameters governing the exercise of jurisdiction of Section 482 of the Code of Criminal Procedure are well settled. In a celebrated judgment cited as **State of Haryana Vs. Bhajan Lal**, 1992 SUPP (1) SCC 335, the Hon'ble Supreme Court has discussed different categories of cases wherein, the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“102 (1) Where the allegations made in the First Information

Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. Reference can also be made to **Narinder Singh and Ors. Vs.**

State of Punjab and another, (2014) 6 SCC 466, wherein the Hon'ble Supreme Court had observed that while exercising power under Section 482 of Cr.P.C., the High Court has to examine as to whether the possibility of conviction of accused is remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

9. It is also considered to be important to mention here that the inherent power given to High Court under Section 482 of Cr.P.C. is with the purpose and object of advancement of justice. The touchstone for exercising that power would be to secure the ends of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered in accordance with the law enacted by the Legislature. The concept of justice is elastic and imperceptible. There can be no hard and fast line constricting the power of the High Court to do substantial justice. The restrictive construction of inherent powers under Section 482 of Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may instead lead to grave injustice. Nonetheless such powers of wide amplitude ought to be exercised carefully in the context of quashing proceedings, bearing in mind, the nature and effect of the offence on the consciousness of the society; the seriousness of the injury, if any; voluntary nature of compromise between the accused and the victim; and conduct of the accused persons, prior to and after the occurrence of the purported offence or other relevant considerations. Reference in this regard can be made to a recent judgment of High Court of Kerala pronounced on 16.11.2023 in CrI. MC No.7497 of 2023, ***Kahar and others v. State of Kerala and others***, wherein it was observed that the viability of quashing a

criminal proceeding on the ground that the accused and victim of sexual assault settles the dispute, resolves ultimately around the facts and circumstances of each case and no straitjacket formula can be formulated. It was further observed that where the High Court has such facts on record which clearly exhibit that the criminal prosecution involving non-compoundable sexual offences against women and children will result in greater injustice to the victim, its closure would only promote her well being, and the possibility of a conviction is remote, it can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach and very well decide to quash such proceeding upon a compromise between the accused and the victim after taking into account all relevant facts.

10. On considering the peculiar facts and circumstances of the case as noted above, while keeping in view the well established position of law coupled with the reasons aforementioned and the fact that the matter stands amicably settled between the parties and petitioner No. 1 and respondent No. 2 have decided to part their ways by way of getting a decree of divorce under Section 13-B of the Hindu Marriage Act, I am of the considered opinion that it is a fit case for exercising inherent jurisdiction of this Court under Section 482 of the Code, so as to secure the ends of justice and the quashing of FIR would be for the welfare of the parties.

11. In view of the discussion as made above, the present petition is allowed and a complaint bearing No. COMI-378/2017 dated 25.05.2017 (Annexure P-1), titled as *Shivani Sachdeva vs. Harpal Singh and others*, filed under Sections 376, 313, 323, 324, 328, 406, 498-A, 506 and 120-B of IPC and the consequential proceedings arising therefrom, are ordered to be

quashed qua the petitioners.

13. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before the learned trial Court.

15.04.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned Yes

Whether reportable Yes