

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

257

CRM-M-42052-2023

Date of Decision: 18.07.2024

Gurmit Kaur and others

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rakesh Kumar, Advocate for the petitioners.

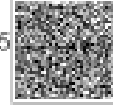
Ms. Rishu Madan, AAG, Punjab.

Mr. Tushar Sharma, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioners who are mother-in-law (petitioner No. 1), husband (petitioner No. 2) and father-in-law (petitioner No. 3) have filed the instant petition under Section 482 Cr.P.C. for quashing of Criminal Complaint bearing COMI/85/2019 dated 04.10.2019 (Annexure P-1) filed under sections 406, 498-A, 364, 506, 323, 325, 307 and 120-B IPC and all consequential proceedings arising therefrom including the summoning order dated 03.03.2022 (Annexure P-2) whereby the petitioners have been summoned to face trial, on the basis of compromise dated 22.02.2023 (Annexure P-4), arrived at between the parties.

It is pertinent to mention here that petitioners No. 2 and 3/ husband and father-in-law, respectively of complainant/respondent No. 2



herein have filed the instant petition through their Power of Attorney holder/petitioner No. 1-Gurmit Kaur, as they are permanent residents of Portugal.

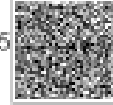
Perusal of the files shows that while issuing notice of motion in the present case vide order dated 24.08.2023, this Court had directed the parties to appear before the learned trial Court for recording their statements qua the genuineness of the compromise.

Pursuant thereto, report from the learned Additional District and Sessions Judge, Kapurthala, vide letter dated 06.10.2023 along with copies of statements of the parties duly forwarded by the learned District and Sessions Judge, Kapurthala, has been received.

A perusal of the above said report would show that the petitioner No. 1-Gurmit Kaur on her behalf as also being attorney of petitioners No. 2 and 3 and respondent No. 2 have appeared before the learned trial Court and suffered statements with regard to the compromise which have been found to be genuine, voluntary and without any coercion and undue influence. It was further reported that petitioners No. 2 and 3, namely, Kulwinder Singh and Balwinder Singh, respectively have been declared as proclaimed offenders vide order dated 26.08.2022, passed by the learned trial Court.

Thereafter, when this case was listed for hearing on 03.11.2023, following order was passed by a co-ordinate Bench of this Court:-

“In compliance of order dated 24.08.2023, report of



learned Additional District and Sessions Judge, Kapurthala has been received along with copies of statements of the petitioners as well as respondent No. 2, as per which, petitioner No. 2-Kulwinder Singh and petitioner No. 3-Balwinder Singh were declared as proclaimed persons vide order dated 26.08.2022 passed by the learned trial Court, before which the private complaint filed by respondent No. 2 is pending.

The petitioners have also sought setting aside/quashing of the abovesaid order on the ground that they were residing abroad prior to the filing of the complaint by respondent No.2, therefore, they were not aware about the summoning order as well as proceedings initiated under Section 82 Cr.P.C. at the instance of respondent No. 2.

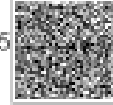
Learned counsel for respondent No. 2/complainant has not disputed this factual position.

Prayer has been made by petitioner No. 2 and 3 at this stage, to allow them to join the proceedings of the complainant filed by respondent No.2.

Keeping in view the peculiar facts and circumstances of the case to the effect that parties have entered into a compromise and even respondent No. 2 has no objection, if petitioners No. 2 and 3 joint the proceedings of the complaint, at this stage, a direction is hereby given to them to surrender before the learned trial Court on or before 05.12.2023 and the trial Court is also directed to admit them on bail subject to their furnishing requisite personal as well as surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate.

Learned trial Court shall send its report to this Court regarding appearance of petitioners No. 2 and 3 before it.

For consideration of question of quashing of



summoning order, to come upon 10.01.2024.”

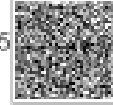
Pursuant thereto, report from the learned Additional District and Sessions Judge, Kapurthala (Duty), vide letter dated 09.01.2024, duly forwarded by the learned District and Sessions Judge, Kapurthala, has been received, wherein it is reported that in compliance of the order passed by a co-ordinate Bench of this Court, reproduced above, petitioner No. 3-Balwinder Singh, had appeared before the learned trial Court on 01.12.2023 and was released on bail on furnishing bail/surety bonds; whereas petitioner No. 2-Kulwinder Singh, had not appeared before the learned trial Court till 05.12.2023.

Thereafter, on 14.05.2024, petitioner No. 2-husband had filed CRM-22375-2024, for grant of one more opportunity to appear before the learned trial Court in compliance of order dated 03.11.2023, by raising the plea in the said application that his passport was before the Embassy for preparing VISA for USA and was not available with him, therefore, he could not visit India. A co-ordinate Bench of this Court directed the applicant/respondent No. 2 to place requisite documents on record in support of his above-said plea.

On the next date of hearing i.e. 30.05.2024, following order was passed by a co-ordinate Bench of this Court:-

“CRM-22375-2024

The application has been filed by the applicant/petitioner no.2 who is petitioner no.2 in the main petition. Direction was given to him to appear before learned trial Court on or before 05.12.2023 vide order dated



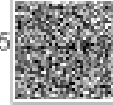
03.11.2023 passed by this Court. It is evident that the applicant/petitioner no.2 did not appear before the learned trial Court till date. It is submitted in the application that in fact applicant/petitioner no.2 was staying in Portugal at the relevant point of time and since he had already applied for a visa for U.S.A and his passport was not with him as it was lying deposited with concerned Embassy, therefore, he could not ensure his presence before the learned trial Court on that date as per the direction given by this Court.

Request has now been made to let him surrender before learned trial Court. Learned counsel for respondent no.2 has no objection if the application is allowed. The applicant/petitioner no.2 has also placed on record a copy of a letter dated 02.05.2024 showing that the U.S.A. Embassy had rejected his non-immigrant visa on that date.

In view of the circumstances as explained in the circumstances and submission made by learned counsel for the applicant/petitioner no.2 as well as in view the interest of justice, application is allowed and the applicant/petitioner no.2 is directed to surrender before learned trial Court within a period of 10 days in compliance of order dated 03.11.2023. In case of his surrender, learned trial Court shall admit him to bail subject to his furnishing requisite personal as well as surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate/Trial Court.

Report of the regarding surrender of the applicant/petitioner no.2 be sent to this Court on 18.07.2024, the date already fixed in main case”

In compliance of the order dated 30.05.2024, report from the learned trial Court vide letter dated 25.06.2024 duly forwarded by the

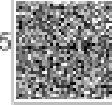


learned District and Sessions Judge, Kapurthala has been received, wherein it has been reported that petitioner No. 2-Kulwinder Singh had appeared on 05.06.2024 and was released on bail on his furnishing bail bond and surety bonds.

In view of the above and from the perusal of the record it transpires that marriage of petitioner No. 2 with complainant/respondent No.2 was solemnized on 13.11.2009 which was registered on 25.11.2009. Three children were born out of the said wedlock. Due to matrimonial discord between the parties, respondent No. 2-complainant/ wife had filed a criminal complainant (Annexure P-1), in which summoning order dated 03.03.2022 (Annexure P-2) was passed against the petitioners herein and thereby they were summoned to face trial. Thereafter, the matter has been resolved between the parties, as is evident from the statement of respondent No. 2-complainant dated 22.02.2023 (Annexure P-5) made before the learned Sub Divisional Judicial Magistrate, Bohla, wherein she has stated that she does not want to pursue with the complainant and the same may kindly be dismissed as withdrawn.

Learned counsel for the petitioners as well as learned counsel for respondent No. 2-complainant are *ad idem* that since the matter has been settled between the parties and statements of the parties qua genuineness of compromise have also been recorded, therefore, the instant petition may be allowed.

Learned State counsel has stated that he has 'no objection' in case the impugned complaint (Annexure P-1) as well as summoning order



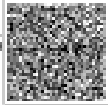
dated 03.03.2022 (Annexure P-2) is quashed on the basis of compromise qua the petitioners.

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

After perusing all the reports received from the learned trial Court as narrated above and keeping in view the totality of the facts and circumstances of the case, 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 Criminal Complaint bearing COMI/85/2019 dated 04.10.2019 (Annexure P-1) filed under sections 406, 498-A, 364, 506, 323, 325, 307 and 120-B IPC and all consequential proceedings arising therefrom including the summoning order dated 03.03.2022 (Annexure P-2) whereby the petitioners have been summoned to face trial, on the basis of compromise dated 22.02.2023 (Annexure P-4), arrived at between the parties, are ordered to be quashed qua the petitioners.

18.07.2024

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No