

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

262

CRM-M-54416-2021

Date of Decision: 23.07.2024

Jaspal Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rajiv Joshi, Advocate for the petitioner.

Ms. Rishu Madan, AAG, Punjab.

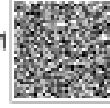
Smt. Satwant Kaur-respondent No. 3 is present in person.

NIDHI GUPTA, J. (ORAL)

1. The petitioner who is the husband of respondent No. 2-complainant through his father-Kashmir Singh/General Power of Attorney Holder, has filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 4 dated 10.04.2012 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station NRI, Jalandhar and all the consequential proceedings arising therefrom, on the basis of compromise dated 02.08.2017 (Annexure P-6), arrived at between the parties.

2. On 08.02.2024, when this case was listed for hearing, following order was passed by this Court:-

“Present petition under Section 482 Cr.P.C. is filed seeking quashing of FIR No.4 dated 10.04.2012 under



Sections 406 and 498-A IPC registered at Police Station NRI Jalandhar; and the entire proceedings arising thereof and pending before the learned trial Court at Jalandhar; on the basis of compromise deed dated 02.08.2017 (Annexure P6).

Learned counsel for the respondents No.2 and 3 (being the wife and mother-in-law of the petitioner respectively) has tried to impress upon this Court that respondent No.2/wife was misled by the petitioner inasmuch as she was given the impression that the Rs.14 lakh given to her by way of full and final settlement, was only the first instalment of the settlement to be arrived at between the parties. However, the said contention on part of respondents No.2 and 3 herein, is borne out to be utterly false as, a perusal of the judgment of the learned Family Court, Jalandhar dated 27.03.2019 (Annexure P8), wherein, in petition under Section 13-B of Hindu Marriage Act, respondent No.2 had appeared in person (as petitioner No.1) and she had made a categorical statement herself before the learned Family Court to the effect that she had received Rs.4 lakh from the present petitioner at the time of recording of first motion statement and “out of total permanent alimony of Rs.14,00,000/- as agreed between the parties and thereafter she received remaining settled amount of Rs.10,00,000/- from petitioner no.2 at the time of recording of second motion statement and parties stated that now nothing is due against each other”.

In view of the above statement recorded by respondent No.2/wife herself, the falsehood of the contentions sought to be made on part of respondent No.2 are clearly borne out from the record.

Adjourned to 13.07.2024.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate on 29.02.2024 for recording of their statement with regard to the compromise dated 02.08.2017 (Annexure P-6) by moving an appropriate application or by presenting this order. The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the*



victims/complainant as well as accused are party to the compromise in question.

A copy of the report be sent through fax, to the Registrar (Judicial) of this Court.”

3. Pursuant thereto, report from the learned Chief Judicial Magistrate (NRI Court) Jalandhar, vide letter dated 22.03.2024, duly forwarded by the learned District and Sessions Judge, Jalandhar, has been received, wherein it was reported that *‘none of the party turned up before the trial Court for recording their statement qua the compromise’*.

4. Learned counsel for the petitioner, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. Marriage of the petitioner with complainant/respondent No.2 was solemnized on 28.12.2009 and one child was born out of the said wedlock, who is currently in the care and custody of the respondent No. 2. Due to temperamental differences, the parties could not cohabit together and started residing separately. Now, better sense has prevailed between the parties and in order to live peacefully, parties have entered into a compromise dated 02.08.2017 (Annexure P-6), according to which, both the parties have agreed not to proceed further with the FIR in question. Vide judgment and decree dated 27.03.2019 (Annexure P-8) the parties have also been granted divorce by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955. The petitioner has also paid the entire settlement amount of Rs.14,00,000/- to respondent No. 2 towards full and final settlement and this fact has also been mentioned in para 3 of the judgment and decree (Annexure P-8, at page 31 of the paper-



book) and nothing is due against each other.

5. Respondent No. 3-complainant/mother of respondent No. 2 herein, who is present in Court objects the factum of compromise between the parties and submits that the petitioner has not paid the entire settlement amount.

6. On the other hand, learned State counsel has stated that he has 'no objection' in case the FIR is quashed on the basis of compromise qua the petitioner.

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

8. In view of the above, this Court finds that the matter has been settled between the petitioner and respondent No. 2. The petitioner and respondent No. 2 have already been granted decree of divorce by way of mutual consent vide judgment and decree dated 27.03.2019 (Annexure P-8) and the petitioner had also paid the entire agreed amount of Rs.14,00,000/- to the respondent No. 2 in terms of condition No. 1 of the Compromise dated 02.08.2017 (Annexure P-6) (at page 24 of the paper-book). 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.

9. 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.

10. 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”.

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

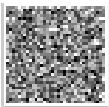


“A. Criminal Procedure Code, Section 320-Indian Penal Code, Section 406 and 498A - Compounding of offence - FIR under Sections 498A, 406 Indian Penal Code-Wife entering into settlement at intervention of court and accepting Rs. 2.25 lacs from husband - Wife backed out - FIR quashed - In view of conduct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

12. 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.

13. 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.”

14. In view of what has been discussed here-in-above, this petition is allowed and FIR No. 4 dated 10.04.2012 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station NRI, Jalandhar and all the consequential proceedings arising therefrom, on the basis of compromise dated 02.08.2017 (Annexure P-6), arrived at between the parties, are ordered to be quashed qua the petitioner.

23.07.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No