

CRM-M-52483-2023

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2024:PHHC:053551

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-52483-2023

Date of Decision:22.04.2024

Nishu Verma

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Raghav Soni, Advocate for the petitioner.

Mr. S.S.Chahal, A.A.G., Punjab.

Mr. Amandeep Singh, Advocate
for respondent No.2.

NIDHI GUPTA, J. (ORAL)

The petitioner who is husband of respondent No. 2-complainant has filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 4 dated 06.01.2015 registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Amritsar (Annexure P-1) and judgment and conviction order dated 18.10.2018 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Amritsar and all the consequential proceedings arising therefrom, on the basis of compromise dated 04.10.2023 (Annexure P-3) effected between the parties.

Vide order dated 30.11.2023, parties were directed to record their statements before the learned Illaqa Magistrate which reads as follows:-

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.4 dated 06.01.2015 under Sections 406 and 498-A of the Indian Penal Code, 1860 registered at Police Station Women Cell, District Amritsar, along with all the subsequent proceedings arising therefrom and the judgment of conviction and order of sentence dated 18.10.2018 passed by the Court of learned Judicial Magistrate 1st Class, Amritsar, on the basis of a compromise dated 04.10.2023 (Annexure P-3) arrived at between the parties.

*Learned counsel for the petitioner would contend that the petitioner and complainant-respondent No.2 have since resolved all their disputes and entered into a compromise (Annexure P-3). Learned counsel for the petitioner has relied upon the judgment rendered by the Hon’ble Supreme Court in '**Ram Gopal and Anr. Vs State of Madhya Pradesh**' [2021 (SCC) Online (SC) 834] and the judgment delivered by a Division Bench of this Court in '**Sube Singh & Anr. vs. State of Haryana & Anr.**' [2013(4) RCR (Criminal) 102], to contend that in case of a matrimonial dispute, judgment of conviction and order of sentence can also be set aside on the basis of the compromise.*

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Amandeep Singh, Advocate for Mr. Vikasdeep Singh, Advocate accepts notice for the complainant-respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have since entered into a compromise which has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 has no objection if the aforesaid judgment of conviction and order of sentence are quashed.

List on 12.03.2024.

Meanwhile, the parties are directed to appear before the concerned Chief Judicial Magistrate/Illaq Magistrate/trial Court on 10.01.2024, or on any other date convenient to the Court, for recording

of their statements. The CJM/Illaq Magistrate/trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along with the statements of the parties, on the following points be sent to this Court before the next date of hearing :

- 1) Whether the compromise dated 04.10.2023 (Annexure P-3) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties.*
- 4) Whether all the accused are party to the compromise.”*

Pursuant to the above said order, the parties appeared before the learned Additional Sessions Judge, Amritsar, to get their statements recorded. Learned Additional Sessions Judge, Amritsar, has submitted her report along with statements of the parties vide letter dated 15.02.2024 duly forwarded by the learned District and Sessions Judge, Amritsar on 16.02.2024.

A perusal of the above said report would show that the petitioner and respondent No. 2 have appeared and suffered statements with respect to the compromise, which have been found to be valid, genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioner submits that the present FIR emanates from the matrimonial dispute between the parties. He further submits that as per report, the FIR in question was registered against four accused namely Nishu Kumar, Kewal Kumar, Krishna Devi and Rahul Verma and all the accused except the petitioner were acquitted by the learned trial Court vide judgment and order dated 18.10.2018.

The petitioner has not been declared as proclaimed offender and no criminal case has been registered against the petitioner. He also draws attention of this Court to averments made in para No. 8 of the petition wherein he stated that parties have also been granted divorce by mutual consent in a petition under Section 13-B of the Hindu Marriage Act by the learned Principal Judge, Family Court, Amritsar vide decree of divorce subsequent to recording of second motion statement on 26.02.2024.

Learned State counsel has stated that he has 'no objection' in case the FIR is quashed on the basis of compromise qua the petitioner.

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

After perusing the report submitted by the learned Additional Sessions Judge, Amritsar, this Court finds that the matter has been amicably settled between the petitioner 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 FIR No. 4 dated 06.01.2015 registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Amritsar (Annexure P-1) and judgment and conviction order dated 18.10.2018 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Amritsar and all the consequential proceedings arising therefrom, on the basis of compromise dated 04.10.2023 (Annexure P-3) effected between the parties, are ordered to be quashed qua the petitioner.

22.04.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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