

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116+258

CRM-28057-2024 in/and
CRM-M-56836-2023

Date of Decision: 17.07.2024

Radhey Shyam Kapoor and another

.... Petitioners

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Manoj Kaushik, Advocate for the petitioners.

Mr. Aditya Pal Singla, AAG, Haryana.

Mr. Randeep Singh, Advocate for
Mr. Karamjeet Singh, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

CRM-28057-2024

Application is allowed, as prayed for.

Copy of judgment and decree of mutual divorce dated
25.09.2023 passed by the learned Principal Judge, Family court,
Faridabad, is taken on record as Annexure P-6, subject to all just
exceptions.

CRM-M-56836-2023

1. The petitioners who are husband (petitioner No. 1) and
brother-in-law (petitioner No. 2) of respondent No. 2-complainant have



filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 155 dated 06.09.2020 (Annexure P-1) registered under Sections 323, 354-D, 506, 509 read with Section 34 IPC (Later on Section 498-A added and Sections 377 and 354 IPC deleted) at Women Police Station NIT Faridabad, District Faridabad and all the consequential proceedings arising therefrom, on the basis of Settlement/Compromise dated 14.09.2023 (Annexure P-2), arrived at between the parties.

2. 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 23.02.2003 (inadvertently mentioned as 23.01.2003 in the order dated 14.11.2023 passed by a co-ordinate Bench of this Court). Two children were born out the said wedlock, who are currently in the care and custody of petitioner No. 1-husband. Due to temperamental differences, the parties could not cohabit together and started residing separately since 25.05.2020. Now, better sense has prevailed between the parties and in order to live peacefully, parties have entered into a Settlement/Compromise dated 14.09.2023 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. The parties have also been granted divorce by way of mutual consent vide judgment and decree dated 25.09.2023 (Annexure P-6). Further, it is submitted that initially, 04 persons were named in the FIR, however, challan has been filed only against the present petitioners. It is further submitted that the petitioners have never been declared as



proclaimed offender(s).

3. Perusal of the file shows that vide order dated 14.11.2023, a co-ordinate Bench of this Court directed the parties to record their statements qua genuineness of compromise on the basis of which quashing of impugned FIR (Annexure P-1) has been sought by way of filing the instant petition. Thereafter, when this case was listed for hearing on 04.03.2024, following order was passed by this Court:-

“Vide last order dated 14.11.2023, parties were directed to appear before the learned trial Court for recording of their statements which regard to compromise dated 14.09.2023 (Annexure P-2).

Mr. Karamjeet Singh, Advocate puts in appearance on behalf of respondent No. 2 and files Vakalatnama, which is taken on record.

Learned counsel for respondent No. 2 submits that complainant/respondent No. 2 and files Vakalatnama, which is taken on record.

Learned counsel for respondent No. 2 submits that complainant/respondent No. 2 did not appear before the learned trial Court for recording of her statement in terms of last order dated 14.11.2023, passed by a Co-ordinate bench of this Court, as nothing as been granted to the complainant by way of permanent alimony as per aforesaid compromise dated 14.09.2023 (Annexure P2). It is further submitted that the two minor children born out of the wedlock of the parties is in the care and custody of petitioner No. 1/husband.

As per report received from learned Judicial Magistrate Ist Class, Faridabad dated 30.11.2023, the complainant appeared before the Court and made a



statement that the matter has not been compromised between her and accused and she has objection in quashing the present FIR. Learned counsel for the petitioners submits that petition filed by the parties under Section 13-B of the Hindu Marriage Act, 1955 for grant of mutual divorces, has been decreed. However, learned counsel seeks some time to verify the said fact and place on record the decree of divorce.

At request, adjourned to 17.07.2024.”

4. In compliance of the aforesaid order, learned counsel for the petitioners has placed on record a copy of judgment and decree dated 25.09.2023 passed by the learned Principal Judge, Family Court, Faridabad, (Annexure P-6) and refers to para 5 of the said judgment, which reads as under:-

“5. Petitioners have given statements on two dates (i.e. first motion and second motion) supported by their affidavits sworn by them that marriage between them was solemnized on 23.02.2003 and they could not pull on together as husband and wife due to their temperamental differences and incompatibility issues. Since 25.05.2020, the petitioners have been living separately from each other. According to them, they have amicably settled their claims regarding Ishtridhan, alimony, maintenance, custody of children and visitation rights etc., and resolved all their disputes as per terms set out in their joint petition. Nothing remains due against either of the parties.”

5. In view of the above, learned counsel for the petitioners submits that respondent No. 2-complainant is not intentionally coming forward before the learned trial Court for recording statement qua the compromise, despite the fact that all the disputes between the parties have



been resolved and nothing remains due against either of the parties.

6. On the other hand, learned counsel for respondent No. 2-complainant submits the nothing has been paid by petitioner No. 1 to respondent No. 2 towards permanent alimony which is the right of respondent No. 2-wife. However, he has not disputed the factum of compromise between the parties.

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

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

9. In view of the above, 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 25.09.2023 (Annexure P-6). 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.

10. 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.

11. 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”.

12. 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

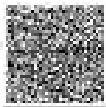


accepting Rs. 2.25 lacs from husband - Wife backed out - FIR quashed - In view of conduct of wife, continuance of proceedings would be abuse of process of Court.

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”.

13. 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.

14. 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.”

15. In view of what has been discussed here-in-above, this petition is allowed and of FIR No. 155 dated 06.09.2020 (Annexure P-1) registered under Sections 323, 354-D, 506, 509 read with Section 34 IPC (Later on Section 498-A added and Sections 377 and 354 IPC deleted) at Women Police Station NIT Faridabad, District Faridabad and all the consequential proceedings arising therefrom, on the basis of Settlement/Compromise dated 14.09.2023 (Annexure P-2), arrived at between the parties, are ordered to be quashed qua the petitioners.

17.07.2024
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No