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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58644-2022 (O&M)

Date of Decision: 18.03.2024

TUTU SINGH @ TUTU SINGH AUJLA

.....PETITIONER

Vs.

STATE OF UNION TERRITORY CHANDIGARH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Baljinder Singh, Advocate,
for the petitioner.

Ms. Simsi Dhir Malhotra, A.P.P., U.T. Chandigarh.

Mr. Sandeep Arora, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN J. (ORAL)

[1] The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 108 dated 13.05.2004, under Sections 406 and 498-A Indian Penal Code, 1860 (for short '*the IPC*') (Sections 418 and 420 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, were added later on) registered at Police Station Sector 26, Chandigarh, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 19.11.2022 (Annexure P-5) arrived at between the parties.

[2] The petitioner was convicted and sentenced under Section 498 of the IPC, vide judgment and order dated 18.09.2014, passed by the learned Judicial Magistrate Ist Class, Chandigarh (Annexure P-3). Thereafter, the

appeal filed by the petitioner was also dismissed, vide judgment dated 16.04.2015 (Annexure P-4).

[3] Learned counsel for the petitioner contends that now the parties have effected a compromise which has been duly signed by respondent No. 2 and the Special Power of Attorney of the petitioner, namely, Amarjeet Singh Bhangra, as per which parties have resolved to end all the litigation and the complainant-respondent No. 2 does not want to take any action against the petitioner.

[4] He further contends that even a decree of divorce has been passed and marriage between petitioner and respondent No. 2 has been dissolved, vide a decree of divorce dated 09.04.2005 in a petition filed under Section 13 of the Hindu Marriage Act, 1955 by respondent No. 2. The petitioner has not challenged the said order of divorce and it has become final. A copy of the said judgment has been supplied in Court today. The same is taken on record.

[5] Learned counsel appearing on behalf of respondent No. 2 has confirmed the factum of compromise between the parties.

[6] On 27.02.2023, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise.

[7] As per the report dated 09.05.2023, received from the Additional Chief Judicial Magistrate, Chandigarh, through the District & Sessions Judge, Chandigarh, the statement of the complainant and the petitioner through his special power of attorney have been recorded. The statement of the petitioner Tutu Singh alias Tutu Singh Aujla has also been recorded

through video conferencing and the Additional Chief Judicial Magistrate, Chandigarh, has opined that the compromise between the parties is genuine, voluntary and without any coercion or undue influence. The petitioner has not been declared as “Proclaimed Offender” and he is not involved in any other criminal case.

[8] Learned State counsel has not raised any objection regarding the acceptance of the present petition.

[9] In Sukhwinder Singh and another vs. State of Punjab and another (CRM-M-31595-2022), decided on 26.09.2022, while quashing the FIR and the proceedings under Section 482 Cr.P.C. which was registered under Section 457 and 380 of the IPC, a co-ordinate Bench of this Court, quashed the proceedings including the judgment of conviction and sentenced, charges and FIR while placing reliance on the decision of Hon’ble the Apex Court in Shakuntla Sawhney vs. Kaushalya Sawhney (1979) 3 SCR 639, it was observed that the finest hour of justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sentence of fellowship or reunion.

[10] Hon’ble the Apex Court in Ramgopal vs. State of Madhya Pradesh 2021 (4) RCR (Criminal) 322, quashed the proceedings by observing that the criminal proceedings involving non-heinous offences or where the offence are pre-dominantly of a private nature, can be annulled irrespective of the fact that the trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions..

[11] Consequently, this petition is allowed and FIR No. 108 dated 13.05.2004, under Sections 406 and 498-A Indian Penal Code, 1860 (for short '*the IPC*') (Sections 418 and 420 of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, were added later on) registered at Police Station Sector 26, Chandigarh, including the judgment of conviction and order of sentence dated 18.09.2014 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Chandigarh, the judgment dated 16.04.2015 (Annexure P-4) passed by learned Additional Sessions Judge-cum-Judge Special Court, Chandigarh and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

[12] However, the respondent No.2-Sumanpreet Kaur and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise dated 19.11.2022 are violated.

[12] Pending miscellaneous application(s), if any, shall also stand disposed of.

March 18, 2024

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(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking

Whether reportable

Yes/No

Yes/No