
(2021) 03 P&H CK 0456

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 4689 Of 2021

Abhineet Manohar Kaul

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 17-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 120B, 406, 420, 498A, 506

Citation : (2021) 03 P&H CK 0456

Hon'ble Judges : Arun Kumar Tyagi, J

Bench : Single Bench

Advocate : Tulika Prakash, Manik Sethi, Ranvir Singh Arya, Harnam Singh

Final Decision : Allowed

Judgement

Arun Kumar Tyagi, J

(The case has been taken up for hearing through video conferencing.)

Petitioner-ABHINEET MANOHAR KAUL has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for quashing of FIR No.0025 dated 23.10.2015 registered under Sections 498-A, 406, 420 and 120-B of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Women Cell, Gurugram with all consequential proceedings including CHI No.4645 of 2015 pending in the Court of Judicial Magistrate First Class, Gurugram and charge-sheet dated 08.12.2021 arising out of the same in view of the agreement/settlement dated 06.01.2020 (ANNEXURE P-2) effected with respondent No.2-VITASTA KAUL.

Respondent No.Vitasta Kaul made complaint to the Commissioner of Police, Gurugram alleging that her marriage was solemnized with Abhineet Manohar Kaul (the petitioner) on 01.02.2013 at Gurugram. Abhineet Manohar Kaul (the petitioner), Manohar Krishen Kaul (father-in-law), Sunaina Kaul (mother-in-law), Ankna Kaul (sister-in-law) and Rupa Nain (maternal grandmother-in-law) treated

her with cruelty and criminally misappropriated her dowry articles as mentioned in the complaint. Pursuant to registration of above said FIR, the police investigated the case and on completion of investigation charge-sheeted the petitioner.

The petitioner has filed the present petition for quashing of the FIR with all consequential proceedings arising therefrom on the grounds that now the matter has been amicably compromised between the parties and they have decided to part their ways.

Vide order dated 02.02.2021, this Court directed the private parties to appear in person through duly authorised attorney or video conferencing before the trial Court/Illaq Magistrate on 05.02.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. The trial Court/Illaq Magistrate was directed that in case the statements are recorded through video conferencing then video recording of the statements be also made part of the record and to submit report before 23.02.2021 regarding the genuineness and voluntary nature of the compromise.

In compliance of the above said order, learned Judicial Magistrate First Class, Gurugram has recorded the statements of both the parties through their GPA holders by way of video conferencing and submitted report dated 11.02.2021. The relevant part of the same reads as under:-

"In compliance of the said directions the GPA holder on behalf of complainant and accused through video-conferencing appeared before the Court being the Trial Court on 05.02.2021 and got their statements recorded. Their identify has been duly ensured. The GPA Holder on behalf of complainant namely Brij Lal made a statement that he being the GPA Holder on behalf of the complainant vide the GPA dated 29.07.2015 state that the matter in hand i.e. FIR No.25 dated 23.10.2015 PS Women, Police Station, Sector-51, Gurugram under Section 498A, 420, 406 & 120B of IPC, 1860 which was filed by the complainant namely Ms.Vitasta Kaul against accused Abhineet Manohar Kaul S/o Sh. Manohar Krishan Kaul. The matter in hand has been compromised between the parties and a written settlement deed dated 06.01.2020 has been executed. As per the terms and conditions mentioned in the settlement deed dated 06.01.2020 all of the other litigations as well as the present litigation has been compromised. It is stated that the said settlement deed dated 06.01.2020 was signed by the complainant herself and the said compromise was executed between the parties without any coercion or undue influence or pressure and the same was executed with freewill and voluntarily. That nothing else is pending between the parties and submitted his no objection on behalf of the complainant to quash the above-mentioned FIR in the interest of justice as the parties have entered into a genuine compromise. Thereafter, statement of accused Abhineet Manohar Kaul was recorded through V.C. on whatsapp as he was in Singapore connected through his duly appointed Id. Defence counsel. He stated to the effect that he has listen the statement given by Mr.Brij Lal, GPA holder on behalf of the

complainant namely Ms. Vitasta Kaul and completely acknowledge the execution of the settlement deed dated 06.01.2020. He submit that the present matter as well as other litigations have been compromised between the parties and the same was without any coercion or undue influence or pressure and the same was executed with freewill and voluntarily. That nothing else is pending between the parties and he submitted no objection to quash the above-mentioned FIR in the interest of justice as the parties have entered into a genuine compromise. He has duly instructed his learned defence counsel to identify his statement before the Court in this regard.

Thereafter, a separate statement of IO was recorded to the effect that originally in the FIR there were total six accused namely Abhineet Manohar Kaul, Sh. Manohar Krishan Kaul, Sunaina Kaul, Ankana Kaul, Mrs. Rupa rena and Rachana Nazir Kapoor. That during the course of investigation total five accused namely Sh. Manohar Krishan Kaul, Sunaina Kaul, Ankana Kaul, Mrs. Rupa Rena and Rachana Nazir Kapoor were found innocent by the that ACP Sadar and they were not charge sheeted and placed in point No.12 of the charge sheet. That the charge-sheet was filed before the Court on 14.12.2015 against one accused namely Abhineet Manohar Kaul under Section 498A & 406 of IPC whereas Section 506 and 120B IPC were given up by the prosecution. That there is no accused who is a proclaimed offender or arrest is pending or further investigation is pending.

Here, it is respectfully submitted that in view of the aforesaid statements of the accused, complainant and Investigating Officer, it appears that:

1. The FIR was against six accused persons and the charge-sheet was filed against only one accused namely Abhineet Manohar Kaul.
2. That there is no accused declared as proclaimed offender.
3. Yes, it appears the matter has been voluntarily compromised between the parties and the complainant has entered into a settlement/agreement out of her own volition with the accused without any pressure or coercion from any corner and the compromise appears genuine and both of the parties have duly fulfilled the terms and conditions mentioned in such compromise.
4. No, there is no other case pending against the accused.
5. In the main case, charge was framed upon the accused on 05.01.2016 under Sections 498-A & 406 of IPC and since then the case is as the stage of prosecution evidence. Till date, two prosecution witnesses have been examined and now the case is listed for remaining prosecution evidence for 02.04.2021.

In compliance of the Order from the Hon'ble High Court, as the accused appeared through video-conferencing, the video recording of his statement is hereby made part of the record in the pen-drive annexed."

Reply by way of affidavit of Pankhuri Kumar, HPS, Assistant Commissioner of

Police, CAW East, Gurugram on behalf of respondent No.1-State has been filed in the Registry of this Court which is taken on record.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and gone through the relevant record.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052, Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255.

A perusal of the report of learned Judicial Magistrate First Class, Gurugram reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence.

Learned State Counsel has no objection in case the aforesaid FIR with all subsequent proceedings arising therefrom is quashed on the basis of compromise effected between the parties in this case.

The offences involved in the present case arising out of matrimonial dispute are overwhelmingly and predominantly of private character and do not have any social impact. The parties have resolved their dispute and decided to part their ways. The compromise has been arrived at between the parties at the initial stage of the prosecution evidence. The compromise will also contribute to peace and harmony in the society. In the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak. Continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed.

In view of the above, the petition is allowed and FIR No.0025 dated 23.10.2015 registered under Sections 498-A, 406, 420 and 120-B of the IPC at Police Station Women Cell, Gurugram is quashed with all consequential proceedings including CHI No.4645 of 2015 pending in the Court of Judicial Magistrate First Class, Gurugram and charge-sheet dated 08.12.20215 arising out of the same.