

(2018) 06 P&H CK 0019

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous (M) No.5544 Of 2018 And Criminal Revision No..1308 Of 2016

Hitesh Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 01-06-2018

Acts Referred:

Indian Penal Code, 1860 — Section 498A
Code of Criminal Procedure, 1973 — Section 320(6)(8)

Citation : (2018) 06 P&H CK 0019

Hon'ble Judges : B.S. WALIA, J

Bench : Single Bench

Advocate : Keshav Pratap Singh, Pradeep Sharma, Balraj Gujjar

Judgement

1. Learned counsel for the petitioner submits that vide judgment dated 21.3.2016 the learned Appellate Court reversed the judgment of acquittal dated 28.3.2014 passed by the Chief Judicial Magistrate, Bhiwani and convicted the petitioner for the offence under Section 498-A IPC and sentenced him

to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-. The petitioner challenged his conviction by filing the present

criminal revision petition and during the pendency of the instant revision petition, the matter has been settled/compromised amongst the parties before

the Mediation and Conciliation Centre attached to this Court on 23.2.2017 and in view thereof, prayer for compounding has been made by filing CRM

No.5544 of 2018 with a prayer to allow the said application and compound/quash the criminal proceeding arising out of FIR No.679 dated 26.12.2008.

Reliance is placed on the decision of the Division Bench of this Court in Sube Singh versus State of Haryana 2014 (2) Crimes 299. Relevant extract of

the decision in Sube Singh's case (supra) is reproduced as under:

â??(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC to quash the criminal

proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the

trial Court, we find that in Dr.Arvind Barsaul etc. vs. State of Madhya Pradesh & Anr., (2008) 5 SCC 794, the unfortunate matrimonial dispute was

settled after the appellant (husband) had been convicted under Section 498-A IPC and sentenced to 18 monthsâ?? imprisonment and his appeal was

pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the

case and in the interest of justice observing that â??continuation of criminal proceedings would be an abuse of the process of lawâ? and also by

invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the

Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

(17) The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 CrPC with a view to prevent the abuse of law or to

secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable

offences notwithstanding the bar under Section 320 CrPC but such a power, in our considered view, is exercisable at any stage save that there is no

express bar and invoking of such power is fully justified on facts and circumstances of the case.â??

2. Learned AAG, assisted by Mr. Balraj Gujjar, learned counsel for the complainant along with complainant, who is identified by learned counsel for

the complainant, confirmed the recording of compromise/settlement in Mediation Case No.1099 of 2016 on 23.2.2017 besides has produced in Court

affidavit dated 1.6.2018 pursuant to the notice on the application for compounding of the offence under Section 498-A IPC alongwith fresh settlement

agreement dated 1.6.2018 incorporating the stand of the respective parties of their not having any objection to CRR No.1308 of 2016 being allowed or

Petitioner-Husband Hitesh Kumar being acquitted in the above said case by compounding the offence. Paragraph No.6 of the fresh settlement

agreement dated 1.6.2018 executed between the parties is reproduced as under:

That a CRR No.1308 of 2016 is pending before the Hon'ble Punjab and Haryana High Court at Chandigarh, in which the husband Hitesh Kumar has

challenged his conviction order/judgment in FIR No.679 dated 26.12.2008 under Sections 406, 498-A and 34 IPC. It has been agreed between both

the parties that the above said criminal revision petition shall also be disposed of in view of the compromise. The complainant/Poonam shall have no

objection if the above said CRR No.1308 of 2016 is allowed or the husband Hitesh Kumar is acquitted in the above said case by compounding the

offences in the above said criminal revision petition.

4. A perusal of the settlement/agreement dated 23.2.2017 read with settlement agreement dated 1.6.2018 shows that the parties have settled the

dispute and decided to part ways by getting divorce by mutual consent.

5. Learned counsel for the parties state that not only has the entire payment of Rs.15,50,000/- on account of the dowry articles as well as permanent

alimony and maintenance (past present and future) been paid to the complainant but also the parties have been granted divorce on the basis of mutual

consent and in view thereof, learned counsel for the complainant contends that the complainant, who is present in Court, has no objection to the

application for compounding being allowed and petitioner Hitesh Kumar being acquitted of the offence of which he has been convicted by the learned

Additional Sessions Judge, Bhiwani vide judgment dated 21.3.2016.

6. Complainant-Poonam, daughter of Sh.Inder Singh, is present in Court and has been identified by the learned counsel for the complainant. On query,

complainant identified herself to be Poonam daughter of Inder Singh and admitted the correctness and execution of not only the settlement deed dated

23.2.2017 but also settlement deed/agreement dated 1.6.2018 as also affidavit dated 1.6.2018 recording therein that she has no objection to the

application for compounding being allowed and petitioner Hitesh Kumar being acquitted of the offence under Section 498-A IPC for which he has

been convicted by the court of the learned Additional Sessions Judge, Bhiwani. The affidavit and settlement agreement dated 1.6.2018 which has been

filed by learned counsel for the parties during the course of hearing is taken on record as Mark 'A' and shall form an integral part of this order.

7. In view of the position as noted above, this petition is allowed. Judgment and

order dated 21.3.2016 passed in Criminal Appeal No.34 of 2014 by the court of the learned Additional Sessions Judge, Bhiwani convicting the petitioner to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- for commission of an offence under Section 498-A IPC is set aside on the basis of compromise/settlement dated 23.2.2017/1.6.2018 arrived at between the petitioner and complainant as also affidavit dated 1.6.2018 filed by the complainant in court. Accordingly, the petition is allowed in terms of Section 320(6) and (8) of the Cr.P.C. The parties are allowed to compound the offence and the petitioner is acquitted of the offence under Section 498-A IPC. FIR No.679 dated 26.12.2008 is quashed.

8. Allowed in the aforementioned terms. Fine be returned to the petitioner.

9. Learned counsel for the complainant states that in view of the compromise resulting in application for compounding having been allowed and the petitioner having been acquitted of the offence under Section 498-A IPC, he does not press CRM No.38739 of 2016 seeking cancellation of bail granted to the petitioner as also CRM No.38738 of 2016 seeking payment of arrears of maintenance.

11. In view of the aforementioned statement of learned counsel for the complainant, the aforementioned applications are dismissed as not pressed.