

(2020) 10 P&H CK 0121

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 24679 Of 2020

Jaivir Singh @ Mukul And Another

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

Date of Decision : 12-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 498A

Citation : (2020) 10 P&H CK 0121

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Dheeraj Mahajan, Joginder Pal Ratra, Amit Rana

Final Decision : Allowed

Judgement

Avneesh Jhingan, J

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 482 of Cr.P.C for quashing FIR No. 24, dated 18th March, 2020 registered under Sections 498-A of the Indian Penal Code, 1860 at Police Station Sri Anandpur Sahib and all subsequent proceedings arising therefrom.

Petitioner No.1 and Respondent No.2 solemnized marriage on 10th July, 2019. The differences in the relationship resulted in registering the present FIR. In the meantime with the intervention of respectables, the matter was compromised. It is submitted that both the parties have started living together and patched up their differences.

The present petition is filed for quashing on the basis of compromise.

This Court vide order dated 27th August, 2020 directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and a

report was sought.

In pursuance thereof, the Sub Divisional Judicial Magistrate, Sri Anandpur Sahib has submitted a report dated 18th September, 2020 to the effect that the compromise between the parties is genuine, voluntary and without any coercion or undue influence.

As per the Full Bench judgment of this Court in Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, High Court has power under Section 482 Cr.P.C. to allow the compounding of non- compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543, has held as under:-

"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 what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the 2 of 3 offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the

victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Considering the fact that the dispute was between the husband and wife which has been resolved and they have started living together, no useful purpose would be served in allowing the criminal proceedings to continue.

In the facts and circumstances of the case, it is a fit case for exercising the power under Section 482 of the Code of Criminal Procedure.

Accordingly, this petition is allowed. FIR No. 24, dated 18th March, 2020 registered under Sections 498-A of the Indian Penal Code, 1860 at Police Station Sri Anandpur Sahib and all subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners.