
(2013) 03 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Case No : Crl. Misc. No. M-5719 of 2013 (O & M)

Mohinder Ahuja and Others

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Citation : (2013) 03 P&H CK 0058

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Judgement

Mehinder Singh Sullar, J.—The crux of the facts and material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record, is that, initially in the wake of complaint of complainant Neha Ahuja wife of Ricky Ahuja-respondent No. 2 (for brevity "the complainant"), a criminal case was registered against the petitioners-accused Mohinder Ahuja son of late Amarnath Ahuja and others, vide FIR No. 442 dated 09.12.2011 (Annexure P-1), on accusation of having committed the offences punishable under Sections 498-A and 406 read with Section 34 IPC, by the police of Police Station Civil Lines Amritsar, District Amritsar. During the course of investigation of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by means of compromise dated 05.06.2012 (Annexure P-3).

2. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC, inter-alia, pleading that during the course of pendency of the anticipatory bail (Annexure P-2), good sense prevailed and parties have amicably settled their disputes, as per terms & conditions contained in compromise (Annexure P-3). They have redressed their all grievances. They want to live in peace in future. It was claimed that, in pursuance of the settlement, both the parties have already filed the joint petition for dissolution of their marriage by mutual consent u/s 13-

B of the Hindu Marriage Act, 1955 (hereinafter to be referred "the Act"). Sequelly, their marriage was dissolved by decree of divorce dated 30.01.2013 (Annexure P-4). The complainant has no objection, if the criminal case registered against the petitioners-accused, by way of impugned FIR (Annexure P-1) is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

3. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise (Annexure P-3) between them, by this Court, by means of order dated 19.02.2013.

4. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, concluded vide its report dated 20.03.2013, that the parties have amicably settled their disputes, without any kind of pressure or coercion. The compromise is valid and genuine.

5. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by virtue of compromise (Annexure P-3). The factum of compromise is also reiterated in the indicated report of the trial Court.

6. What cannot possibly be disputed here is that, the law with regard to the settlement of such criminal disputes by means of amicable settlement between the parties is no more res integra and is now well-settled.

7. An identical question (recently) came to be decided by the Hon"ble Apex Court in case Gian Singh Vs. State of Punjab and Another, . Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) 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 u/s 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

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 pre-dominantly 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 personnel 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 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.

8. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

9. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned counsel are ad idem that, in view of the settlement of disputes between the parties, the instant petition deserves to be accepted in this context.

10. As is evident from the record, as claimed by the petitioners that, during the course of pendency of the anticipatory bail (Annexure P-2), good sense prevailed and parties have amicably settled their disputes, as per terms & conditions contained in compromise (Annexure P-3). They have redressed their all grievances. They want to live in peace in future. It was claimed that, in pursuance of the settlement, both the parties have already filed the joint petition for dissolution of their marriage by mutual consent u/s 13-B of the Act. Sequently, their marriage was dissolved by decree of divorce dated 30.01.2013 (Annexure P-4). The complainant has no objection, if the criminal case registered against the petitioners-accused, by way of impugned FIR (Annexure P-1) is quashed. The factum and genuineness of the compromise is also reiterated in the indicated report of the trial Court.

11. Therefore, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into

reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Hence, to me, the ratio of the law laid down and the bench-mark set out by the Hon"ble Supreme Court in Gian Singh"s case (supra), "mutatis mutandis" is attracted to the facts of the present case and is the complete answer to the problem in hand. Likewise, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case. In the light of the aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No. 442 dated 09.12.2011 (Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly discharged, from the pointed criminal case, on the basis of compromise.