
(2021) 03 P&H CK 0351

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 15960 Of 2020 (O&M)

Mohit Malik

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 307, 323, 506
Hindu Marriage Act, 1955 — Section 13B
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 03 P&H CK 0351

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : Vinod Ghai, J.S. Mehndiratta, Deepak Grewal, U.K. Agnihotri, Jaivir Yadav

Final Decision : Allowed

Judgement

Arvind Singh Sangwan, J

The petitioner has prayed for quashing of FIR No.489 dated 04.05.2019 for offence punishable under Sections 307/323/506 of the Indian Penal Code, 1860 (in short 'IPC') registered with Police Station City Jagadhri, District Yamuna Nagar and all other consequential proceedings arising therefrom, on the basis of the compromise dated 22.11.2019 effected between the parties.

Vide order dated 12.11.2020, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard to genuineness of the compromise. However later on, the case was adjourned as the proceedings under Section 13-B of the Hindu Marriage Act, pending between the petitioner and respondent No.2/complainant, was not finalized.

The parties are ad idem that now a decree of divorce has already been passed under Section 13-B of the Hindu Marriage Act by the Family Court, Yamuna Nagar on 23.03.2021, after recording the joint statement of the parties on the

second motion.

Copies of the decree-sheet as well as the statements of the parties, have already been placed on record.

Further, in compliance of the order dated 23.03.2021, the complainant has appeared before the trial Court and has made a statement that her marriage with the petitioner stands dissolved by way of a decree of divorce under Section 13-B of the Hindu Marriage Act by way of mutual consent on 23.03.2021 and she do not want to continue any proceeding against the petitioner as she has left with no grievance. It is further stated that she has no objection, if the FIR in the present case is quashed.

The trial Court has also recorded the statement of Ram Phal, Inspector/SHO, Police Station HUDA, Sector 17, Jagadhri, who has stated that the only one person namely Mohit Malik is arrayed as an accused and no other person is involved in the case.

The report dated 25.03.2021 has been submitted by the Additional District & Sessions Judge, Yamuna Nagar, wherein it has been reported that statements of the petitioner and respondent No.2 have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will.

Learned senior counsel for the petitioner has submitted that no other criminal case is pending between the parties and the petitioner has never been declared as proclaimed offender.

The learned senior counsel has further stated that there is no medical opinion that the injury was declared dangerous to life hence, Section 307 IPC is not made out.

Counsel for the State assisted with counsel for the respondent No.2 has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

I have heard counsel for the parties and perused the case file.

After perusing the report submitted by the trial Court, this Court is of the opinion that the matter has been amicably settled between the petitioner and respondent/victims, who have decided to bury their dispute and live in peace.

As per the Full Bench judgment of this Court in "Kulwinder Singh and others vs State of Punjab", 2007 (3) RCR (Criminal) 1052, it is held that 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 feel that the same was required to prevent the abuse of the process of law or otherwise to 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 (Criminal) 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 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 predominatingly 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."

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

At this stage, the parties are ad idem that since the entire matter has been

settled between the parties, the complaint, if any, filed by the petitioner against respondent No.2 and her family members, regarding the alleged harassment will be withdrawn by the petitioner and no further action will be taken, in accordance with the same.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.489 dated 04.05.2019 for offence punishable under Sections 307/323/506 of the Indian Penal Code, 1860 (in short 'IPC') registered with Police Station City Jagadhri, District Yamuna Nagar and proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

However, it is made clear that if at any stage, the petitioner challenges the decree of divorce under Section 13-B of the Hindu Marriage Act, before any Court of Law, then, it will be open for respondent No.2 to revive this petition.