
(2020) 10 P&H CK 0015

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 25538 Of 2020 (O&M)

Parminder Singh And Others

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 05-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 323, 324, 377, 406, 498A, 506
Hindu Marriage Act, 1955 — Section 13B

Citation : (2020) 10 P&H CK 0015

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Karunesh Kaushal, Saurabh Mohunta, Deepal Kaushal

Final Decision : Allowed

Judgement

Tejinder Singh Dhindsa, J

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.0149 dated 20.02.2018, under Sections 323/324/506/406/498-A/377 and 34 IPC registered at Police Station City Sirsa, District Sirsa and all proceedings emanating therefrom in view of the compromise dated 24.08.2020 (Annexure P-2)

Brief facts of the case are that FIR came to be registered at the hands of complainant/respondent NO.2 Gaganpreet Kaur who is none other than the wife of petitioner No.1.

Petitioners No.2 and 3 herein are aged parents of petitioner No.1. Marriage between petitioner No.1 and respondent No.2 was solemnized on 17.10.2015 at Sirsa. No child has been born out of the wedlock. Apparently the matrimonial alliance ran into rough weather and leading to the registration of the FIR.

It has been stated by counsel for the petitioners that with the intervention of certain elders and respectables a settlement has been arrived at between the parties and a decision has been taken to part ways. Even a petition under Section 13-B of the Hindu Marriage Act, seeking dissolution of marriage by way of mutual consent has already been filed.

Mr. Deepal Kaushal, Advocate has entered appearance on behalf of complainant/respondent No.2 and concedes to the factum of a compromise having been entered into. He further submits that the complainant is aged 30 years and if the FIR were to be quashed and the compromise recognized, it would give a chance to the parties to start their lives afresh. He does not oppose the prayer made in the petition.

Under normal circumstances, this Court would not entertain a matter when the non-compoundable offences are heinous and serious in nature. In the instant case, the offences complained of includes an offence punishable under Section 377 IPC and which is in a grave nature.

The Hon'ble Supreme Court in *Narinder Singh and others vs. State of Punjab and another*, (2014) 6 SCC 466, laid down certain principles and guidelines to be kept in mind while quashing of FIRs pertaining to non-compoundable offences.

Paragraphs No.29.2 and 29.5 of such judgment are reproduced here under:-

"29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure : (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case."

In *Gian Singh vs State of Punjab & Anr.* 2012(10) SCC 303, the basic dictum laid down was that where offences are purely private in nature and do not concern public policy, the power to quash proceedings involving non-compoundable offences on the basis of compromise can be exercised.

Adverting back to the facts of the present case, counsel for the petitioners has brought to the notice of this Court that during the course of investigation offences under Section 377 of IPC had been added subsequently on 20.04.2018. It was thereafter added and deleted twice over.

Mr. Saurabh Mohunta, learned DAG, Haryana, would concede that there is no MLR to substantiate the allegations under Section 377 IPC.

Be that as it may the admitted factual premise is that the parties have decided to part ways. A petition under Section 13-B of the Hindu Marriage Act, seeking

divorce by mutual consent already stands filed. Part payment in view of the compromise has already been made by the petitioner to the complainant/respondent No.2.

Under such facts and circumstances, it would be an abuse of the process of law if criminal prosecution were to be permitted to continue pertaining to the impugned FIR.

In view of the above, the instant petition is allowed.

FIR number No.0149 dated 20.02.2018, under Sections 323/324/506/406/498-A/377 and 34 IPC registered at Police Station City Sirsa, District Sirsa and all subsequent proceedings arising therefrom stand quashed qua the petitioners.