

Naveen Kumar and Another Vs. State of Punjab and Another

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Court : Punjab and Haryana

Decided On : Aug-19-2014

Appellant : Naveen Kumar and Another

Respondent : State of Punjab and Another

Judgement :

Crl. Misc. No.M-12915 of 2014 -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH Crl. Misc. No.M-12915 of 2014) Date of decision : - 19.08.2014 Naveen Kumar and another ...Petitioners Versus State of Punjab and another ..Respondents CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR Present: Mr. Rakesh Gupta, Advocate, for the petitioners. Mr. Ratat Bansal, Assistant Advocate General, Punjab for respondent No.1. Mr. Viney Puri, Advocate for respondent No.2. **** Mehinder Singh Sullar, J.

(Oral) The conspectus 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 Deepa Rani daughter of Surinder Pal-respondent No.2 (for brevity the complainant.), a criminal case was registered against the petitioners- accused Naveen Kumar & Parveen Kumar sons of Sadhu Ram, vide FIR No.28 dated 09.03.2013 (Annexure P-1), on accusation of having committed the offences punishable under Sections 406 and 498-A IPC, by the police of Police Station Women Cell, Jalandhar. Kumar Naresh 2014.08.22 10:22 I attest to the accuracy and integrity of this document Chandigarh Crl. Misc. No.M-12915 of 2014 -2- 2. After completion of the

investigation of the case, the police submitted the final police report (challan). Consequently, the petitioners- accused were charge-sheeted for the commission of the indicated offences by the trial Court and the case was slated for evidence of the prosecution.

3. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by means of compromise dated 25.02.2014 (Annexure P-2).

4. 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 now with the intervention of respectable persons of the society, the parties have amicably settled their disputes, by way of compromise dated 25.02.2014 (Annexure P-2). They have redressed their grievances. The parties are willing to put an end to their enmity and want to live in peace & harmony in future. The compromise is stated to be in the welfare and larger interest of the parties. They were stated to have already filed the petition for annulment of their marriage, under Section 11-B of The Hindu Marriage Act, 1955 (hereinafter to be referred as 'the Act'). The complainant has no objection, if the criminal case registered against the petitioners-accused, by virtue of impugned FIR 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. Kumar Naresh 2014.08.22 10:22 I attest to the accuracy and integrity of this document Chandigarh Crl. Misc. No.M-12915 of 2014 -3- 5. 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-2), by means of order dated 21.04.2014, by a Co-ordinate Bench of this Court (M. Jeyapaul, J.).

6. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, has concluded vide its report dated 14.05.2014, that they have amicably settled their disputes. The compromise arrived between them is valid,

genuine, without any force and pressure.

7. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by way of compromise (Annexure P-2). The factum of compromise is also reiterated in the pointed report of the trial Court. Learned counsel for the complainant has also acknowledged the factum of compromise.

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

9. An identical question came to be decided by the Hon'ble Supreme Court in case *Gian Singh Versus State of Punjab and another*. 2012(4) RCR (Criminal) 543. Having interpreted the relevant provisions and considered a line of the judgments on the pointed 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 *Kumar Naresh* 2014.08.22 10:22 I attest to the accuracy and integrity of this document Chandigarh Crl. Misc. No.M-12915 of 2014 -4- 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 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 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.

. Sequel, the same view was again (recently) reiterated by Hon'ble the Apex Court in case *Narinder Singh and others Vs. State of Punjab and another*, 2014(2) RCR (Criminal) 482.

10. 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 Kumar Naresh 2014.08.22 10:22 I attest to the accuracy and integrity of this document Chandigarh Crl. Misc. No.M-12915 of 2014 -5- prosecution against the petitioners deserves to be quashed in view of the compromise or not?.

11. 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.

12. As is evident from the record that, now with the intervention of respectable persons of the society, the parties have amicably settled their disputes, by way of compromise dated 25.02.2014 (Annexure P-2). They have redressed their grievances. The parties are willing to put an end to their enmity and want to live in peace & harmony in future. The compromise is stated to be in the welfare and larger interest of the parties. They were stated to have already filed the petition for annulment of their marriage, under Section 11-B of the Act. The complainant has no objection, if the criminal case registered against the petitioners-accused, by virtue of impugned FIR (Annexure P-1) is quashed. The factum of compromise is also reiterated in the pointed report of the trial Court.

13. 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 and Narinder Singh's and others cases (supra), mutatis Kumar Naresh 2014.08.22 10:22 I attest to the accuracy and integrity of this document Chandigarh Crl. Misc. No.M-12915 of 2014 -6- 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 consequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

14. In the light of the aforesaid reasons, the instant petition is accepted. The impugned FIR No.28 dated 09.03.2013 (Annexure P-1) and all other subsequent proceedings arising thereto, are hereby quashed. Consequently, the petitioners-accused are accordingly acquitted of the charges framed against them, in the indicated criminal case, on the basis of compromise. August 19, 2014 (Mehinder Singh Sullar) naresh.k Judge Kumar Naresh 2014.08.22 10:22 I attest to the

accuracy and integrity of this document Chandigarh

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