

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

263

CRM-M-44078-2023

Date of decision: 07.03.2024

DEEPAK BAGDI

....PETITIONER

V/s

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Choudhary, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Ms. Garima Choudhary, Advocate for
Mr. Ashish Sindher, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.79 dated 10.05.2021 under Sections 323, 354, 376, 406, 498-A, 506, 511 of IPC (Section 354, 376 and 511 IPC deleted later on), registered at Police Station, Women Police Station Yamunanagar, District Yamunanagar, Haryana and all consequential proceedings arising therefrom on the basis of compromise dated 29.08.2023 (Annexure P-4), which is stated to have been effected between the parties.

2 On 04.09.2023, the following order was passed:

"1. The petitioner seeks to quash the FIR No.79 dated 10.05.2021 under Sections 323/354/376/406/498-A/506/511 IPC (Sections 354/376 and 511 IPC deleted later on) registered at Women Police Station Yamunanagar, District Yamunanagar on the basis of compromise.

2. Learned counsel for the petitioner contends that the FIR was registered against the petitioner and three other family members, who were found innocent during the course of investigation and the challan has been presented only against the petitioner. The offence under Sections 354/376 and 511

IPC has been deleted. The marriage of the petitioner was solemnized with respondent No.2 on 11.12.2009 and two sons have been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise, Annexure P-4. The petitioner and respondent No.2 have instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent in the Family Court at Yamunanagar at Jagadhari, wherein statements of the parties at the stage of first motion have been recorded. The petitioner shall pay a sum of Rs.4,50,000/- to respondent No.2 on account of permanent alimony. A sum of Rs.2,25,000/- has already been paid and the balance amount of Rs.2,25,000/- shall be paid when the statements of the parties at the stage of second motion are recorded. Respondent No.2 has received all her articles of istridhan and nothing else is due to respondent No.2 by the petitioner. The custody of minor children shall remain with the petitioner and respondent No.2 shall have visitation rights. No other case is pending between the parties.

3. Notice of motion.

4. Mr. Ranvir Singh Arya, Additional Advocate General, Haryana, accepts notice on behalf of respondent No.1-State.

5. Mr. Ashish Sindher, Advocate, has appeared on behalf of respondent No.2, placed on record vakalatnama and acknowledged the fact of compromise.

6. The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 27.09.2023. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

7. The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arraigned as accused in FIR;*
 - 2. Whether any accused is proclaimed offender;*
 - 3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*
 - 4. Whether the accused persons are involved in any other case or not.*
 - 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*
- 8. To await the report, list again on 29.11.2023. ”*

3. Pursuant to the aforesaid order, report dated 10.11.2023 from Judicial Magistrate, Ist Class, Yamuna Nagar at Jagadhri, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. As per the statement of L/HC Saroj, Belt No. 772, PS Sadar Yamuna Nagar, there is one accused namely Deepak in the present F.I.R. who is facing trial in present F.I.R.

2. As per the statement of L/HC Saroj, Belt No. 772, PS Sadar Yamuna Nagar, accused involved in the present FIR has not been absconding or declared proclaimed offender in this case.

3 . The compromise is genuine, voluntary and out of free will of the parties without any coercion or undue influence.

4. As per the statement of L/HC Saroj, Belt No. 772, PS Sadar Yamuna Nagar, accused is not involved in other FIR in PS Women, Yamuna Nagar except the present case FIR.

5. As per the statement of L/HC Saroj, Belt No. 772, PS Sadar Yamuna Nagar, there is one victim/complainant namely Jyoti in the present F.I.R.”

4. Learned counsel appearing for respondent No.2 admits the factum of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioner are quashed.

5. Similarly, learned State counsel has stated that he has no objection in case the FIR is quashed based upon the compromise (Annexure P-4).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and the Hon’ble Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding in non-compoundable offences in the cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303, Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052 and Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021).*** The proposition of law that emerges from the aforesaid decisions rendered by the Hon’ble Apex Court and this Court is :

(a) *Power u/s 482 Cr.P.C. vested with this Court is much wider and is unaffected by Section 320 of the Code.*

- (b) *However, wider the power greater the caution.*
- (c) *The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.*
- (d) *The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.*
- (e) *Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR under Section 307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.*
- (f) *Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.*
- (g) *While quashing FIR in non-compoundable offences even which are of private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.*

8. Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested u/s 482 Cr.P.C. to quash the FIR as :-

- (i) *Putting a quietus to the proceedings will bring peace and tranquility amongst parties & will accordingly further the cause of substantial justice.*
- (ii) *The offences alleged are primarily of private nature.*
- (iii) *The parties have compromised.*
- (iv) *As per the report received the compromise is said to be voluntary in its nature.*

(v) Complainant/victim is reported to have entered into compromise on his own volition

9. Consequently, the petition is allowed. FIR No.79 dated 10.05.2021 under Sections 323, 354, 376, 406, 498-A, 506, 511of IPC (Section 354, 376 and 511 IPC deleted later on), registered at Police Station, Women Police Station Yamunanagar, District Yamunanagar, Haryana and all consequential proceedings arising therefrom on the basis of compromise dated 29.08.2023 (Annexure P-4), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

March 07, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No