

**268 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-4540-2022

Date of Decision: 11.05.2022

SUNIL KUMAR @ SUNIL PAHUJA

....Petitioner

VERSUS

STATE OF HARYANA AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN.

Present: Mr. Arun Sharma, Advocate, for the petitioner.

Ms. Sheenu Shura, DAG, Haryana.

Mr. Ankit Aggarwal, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

The petitioner has approached this Court seeking quashing of FIR No.193 dated 29.12.2017 under Sections 354, 498-A and 506 of IPC (later on added Section 354 of IPC has been removed and Section 323 of IPC has been added) registered at Women Police Station District Jhajjar (Annexure P-1) on the basis of compromise dated 17.01.2022 (Annexure P-2).

On 04.02.2022, the following order was passed:-

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No. 193, dated 29.12.2017 (annexed as Annexure P-1), under Sections 354, 498-A, 506 of IPC (later on added Section 354 of IPC has been removed and Section 323 of IPC has been added), registered at Women Police Station, District Jhajjar, and all the subsequent proceedings arising therefrom, on the basis of compromise dated 17.01.2022 (annexed as Annexure P-2).

Learned counsel for the petitioner submits that due to a matrimonial dispute between the parties, the FIR in question came to be registered. However, with the intervention of respectables and relatives,

the dispute between the parties stands resolved vide compromise dated 17.01.2022 (Annexure P-2).

Notice of motion.

Mr. Ankit Aggarwal, Advocate, has put in an appearance on behalf of respondent No.2 and does not dispute the factum of compromise having been arrived at between the parties. Power of Attorney on behalf of respondent No.2 be filed in the registry.

Let a copy of the complete paper book be furnished to the learned counsel for respondent No.2 during the course of the day. Adjourned to 11.05.2022.

Meanwhile, parties are directed to present themselves before the Illaqa Magistrate/trial Court on 01.04.2022 for getting their statements recorded with regard to the factum of compromise so effected between them. The Illaqa Magistrate/trial Court is directed to record the statements of both the parties specifying the following:

i) The number of accused arrayed in the FIR, how many have appeared before it, have made statements and whether any accused is absconding/P.O. in the case;

ii) The name of the complainant and aggrieved and whether all of them have appeared and made their respective statements in support of the compromise so effected between them;

iii) The stage of trial/proceedings;

iv) If the compromise is genuine, voluntarily and out of free will of the parties.

The Illaqa Magistrate/trial Court is further directed to send a report along with statements of the parties with regard to the validity or otherwise of the compromise so effected between the parties.

In pursuance to the aforesaid order, report has been received from District and Sessions Judge, Jhajjar, wherein it has been stated that:

“After perusal of statement of the complainant, accused as well as Investigating Officer L/ASI Sunita, this Court is of considered view that”

1. Five persons namely Sunil, usha, Sohan lal, Romi and Geeta were arrayed as accused in the present FIR, Final report under Section

173 Cr.P.C. Was filed against accused Sunil only and remaining accused namely Usha, Sohan Lal, Romi and Geeta were found to be innocent. Only accused Sunil has appeared before the Court and none of the accused is absconding/proclaimed offender in the present FIR.

2. The name of the complainant and aggrieved is Pooja and she has appeared and made her respective statement in support of the compromise so effected between them.

3. The present case is at the stage of consideration on application under Section 319 Cr.P.C.

4. The compromise is genuine, voluntarily and out of free will of the parties.

Learned counsel for respondent No.2 admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offences punishable under Sections 498-A of the IPC are non compoundable.

In response thereto, learned counsel for the petitioner has relied upon the judgment passed by the Supreme Court in ***Criminal Appeal No.1489 of 2012, titled as Ramgopal and another vs. The State of Madhya Pradesh.*** The relevant portion of the same reads as under;-

“11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under

Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, the present petition is allowed. FIR No.193 dated 29.12.2017 under Sections 354, 498-A and 506 of IPC (later on added Section 354 of IPC has been removed and Section 323 of IPC has been added) registered at Women Police Station District Jhajjar (Annexure P-1) and all proceedings subsequent thereto are hereby quashed.

11.05.2022

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(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned *Yes/No**Whether reportable* *Yes/No*