

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

243

CRM-M-48383-2021

Date of decision:23.03.2022

Chandermohan

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K. Bishnoi, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Ashwani Kumar, Advocate for

Mr. Pardeep Chhoker, Advocate for respondent No.2.

SUVIR SEHGAL J. (ORAL)

On 18.11.2021, this Court passed the following order:-

*“Heard through video conferencing.**Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.286 dated 11.09.2017 under Sections 498-A, 406, 323 and 34 of the Indian Penal Code, 1860, registered at Police Station Sadar Tohana, District Fatehabad, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise deed dated 23.10.2021, Annexure P-3.**Counsel for the petitioner submits that the petitioner is the husband of the complainant-respondent No.2, who has lodged the FIR due to some misunderstanding, which has been cleared and the parties, who are living together at their matrimonial home, have entered into a compromise, Annexure P-3.**Notice of motion.**On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana accepts notice on behalf of State- espondent No.1. Upon instructions from, L/ASI Sarvjeet Kaur, she submits that the challan has been presented and charge has been framed against the petitioner, though he has not been declared as a proclaimed offender. Mr. Pardeep Chhoker, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2. He has admitted the factum of compromise*

arrived at between the parties.

The parties and the Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 21.01.2022 or on any date within a fortnight thereafter as fixed by the trial Court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties;*
- 5. whether any other criminal case is pending against the accused.*

Report of the Illaqa Magistrate/trial Court be awaited for 23.03.2022.”

Pursuant to the above reproduced order, report has been received

and its relevant extract is as under:-

“In respect of the first information as sought by the Hon'ble High Court, it is humbly submitted that initially four accused namely (1) Chander Mohan son of Hawa Singh (2) Hawa Singh son of Risal Singh. (3) Rajender son of Risal Singh & (4) Smt. Saroj wife of Hawa Singh were arraigned as accused in the aforesaid FIR. However, in the aforesaid FIR, only accused namely Chander Mohan son of Hawa Singh, residents of Village Parta, Tehsil Tohana, District Fatehabad (Haryana) has been charge sheeted and the rest of three accused namely Hawa Singh son of Risal Singh. Rajender son of Risal Singh & Smt. Saroj wife of Hawa Singh were not charge sheeted and accused namely Chander Mohan son of Hawa Singh, resident of Village Parta, Tehsil Tohana, District Fatehabad has appeared before the court and has made statement regarding his compromise.

In respect of information at point number two, it is submitted that the name of complainant is Smt. Sonam (daughter of Vishnu) wife of Chander

Mohan, resident of Village Parta, Tehsil Tohana, District Fatehabad (Haryana) and there is only one complainant/injured/aggrieved in the present case and she has appeared and made her statement in support of compromise.

In respect of information at point number three, it is submitted that proceedings of the present case are at the stage of prosecution evidence.

In respect of information at point number four, it is submitted that in pursuance of directions of the Hon'ble High Court in CRM-M-48383-2021, parties and Investigating Officer appeared before this court in person on 24.01.2022 & 27.01.2022 respectively. Complainant Smt. Sonam (daughter of Vishnu) wife of Chander Mohan suffered a statement to the effect that she is victim/complainant/injured in the present case and compromise has been effected between the parties and she has entered into compromise voluntarily, without any undue influence or coercion. Accused Chander Mohan has also suffered separate statement to the effect that compromise has been effected between the parties and he has entered into compromise voluntarily, without any undue influence or coercion. Statement of Investigating Officer was also recorded. Being satisfied that the statements were being voluntarily made, statements of both the concerned parties were recorded on oath wherein they have acknowledged of having entered into compromise, copy of affidavit of compromise which is placed on record as Annexure P-3.

In respect of information at point number five, it is humbly submitted that statements of ESI Mahavir Parsad no. 775, P.S. Sadar Fatehabad and Inspector/SHO Jai Bhagwan no. 271, P.S. Sadar Tohana were also recorded on 27.01.2022, wherein they have stated that there is only one victim/complainant namely Smt. Sonam (daughter of Vishnu) wife of Chander Mohan, resident of village Parta, Tehsil Tohana. District Fatehabad (Haryana) and initially the accused namely (1) Chander Mohan son of Hawa Singh (2) Hawa Singh son of Risal Singh, (3) Rajender son of Risal Singh & (4) Smt. Saroj wife of Hawa Singh were arraigned as accused in the aforesaid FIR. However, in the aforesaid FIR, only accused namely Chander Mohan son of Hawa Singh, residents of village Parta, Tehsil Tohana, District Fatehabad (Haryana) has been charge sheeted and the rest of three accused namely Hawa Singh son of Risal Singh, Rajender son of Risal Singh & Smt. Saroj wife of Hawa Singh were not charge sheeted. As per record,

no other criminal case is pending against the accused Chander Mohan. Further as per record, accused Chander Mohan has not been declared as Proclaimed Offender/Proclaimed Person.

In view of the statements of interested parties and Investigating Officer, this court is satisfied that the compromise has been arrived between the parties and the said compromise is genuine, voluntary and out of free will of the parties.”

Supreme Court in ***Gian Singh Versus State of Punjab and another***, 2012(4) RCR (Criminal) 543 has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute.

In ***Ramgopal and another Versus The State of Madhya Pradesh 2021 SCC Online 834***, Apex Court has held that 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.

FIR, Annexure P-1, is an outcome of a marital discord, which has been amicably settled and the parties, who have ironed out the relational wrinkles in their marriage, are staying together. Therefore, continuation of criminal proceedings would be an exercise in futility and ends of justice would be secured by putting an end to the dispute, so that peace and harmony is restored. In view of the judgments of the Supreme Court, this Court is of the view that inherent powers under Section 482, Cr.P.C. deserve to be invoked to set aside penal proceedings.

Accordingly, present petition is allowed. FIR No.286 dated 11.09.2017 under Sections 498-A, 406, 323 and 34 of the Indian Penal Code, 1860, registered at Police Station Sadar Tohana, District Fatehabad, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioner.

23.03.2022

(SUVIR SEHGAL)
JUDGE

sheetal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No