

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

**CRM-8430-2022 IN/AND
CRM-M-49940-2021
Date of Decision: 11.03.2022**

Narinder Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Fateh Saini, Advocate,
for the applicant/petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Mr. Pawan Attri, Advocate,
for respondent No.2.

(Through video conferencing)

PANKAJ JAIN, J. (ORAL)

CRM-8430-2022

This is an application for preponement of the main case which is stated to be fixed for 13.10.2022.

For the reasons mentioned in the application, the same is allowed and the main case is accordingly preponed to today itself for hearing.

CRM-M-49940-2021

By way of this petition, the petitioner is seeking quashing of FIR No.107 dated 18.04.2019, registered under Sections 323, 354, 406, 498-A and 506 of the Indian Penal Code, at Police Station Chandimandir,

District Panchkula, along with all other subsequent proceeding arising therefrom, on the basis of compromise.

On 30.11.2021, the following order was passed:-

“Petitioner is seeking quashing of FIR bearing No. 107 dated 18.04.2019, under Sections 323/354/406/498-A/506 IPC registered at Police Station Chandimandir, Panchkula on account of compromise having been effected between the parties.

Learned counsel for the petitioner states that offence under Section 354 IPC has been deleted and challan has only been presented against the petitioner. The matrimonial dispute has been amicably settled in terms of the compromise, Annexure P-2. The parties have already instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent and statements at the stage of first motion have been recorded.

Notice of motion.

Mr. Zorawar Singh Chauhan, DAG Haryana has put in appearance on behalf of the State.

Mr. Nitin Kumar Sharma, Advocate appearing for Mr. Pawan Attri, Advocate has put in appearance on behalf of respondent No.2 and acknowledges the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 10.12.2021 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 Investigation Officer as to how many victims/complainants are there in the FIR.*

Adjourned to 23.02.2022 to await the report.”

In pursuance to the aforesaid order, report dated 17.01.2022 has

been received from the Addl. Chief Judicial Magistrate, Panchkula, whereby, it has been reported that:-

“1. Number of persons arrayed as accused in FIR?

** Initially, total four persons were arrayed as accused. However, during investigation, three were found innocent and challan has been filed against only the husband of the complainant i.e. accused Narinder Kumar S/o Shri Jeet Ram.*

2. Whether any accused is proclaimed offender?

** No accused is proclaimed offender in this case.*

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

** The compromise arrived between the complainant Rajbir Kaur and accused Narinder Kumar appears to be genuine, voluntary and entered into without any coercion or undue influence. Separate statement of the complainant as well as accused was also recorded. Complainant categorically submitted in her statement that she has entered into the compromise without any fear or pressure and she has no objection in case FIR against the accused is quashed. Accused also affirmed the fact of compromise in his statement. Copy of compromise deed Ex.C1 was also tendered by the parties.*

4. Whether the accused persons are involved in any other case or not.

** As verified by the Investigating Officer, accused is not involved in any other FIR apart from this case.*

5. The trial court is also directed to record the statement of the Investigation Officer as to how many victims/complainants are there in the FIR.

** Statement of Investigating Officer was recorded wherein he submitted that Rajbir Kaur is the complainant in the FIR who is the only victim.*

Submitted please.”

Learned counsel appearing for respondent No.2 admits the fact

of the parties having compromised and states that he has no objection in case the aforesaid FIR, along with all other subsequent proceeding arising therefrom against the petitioners, is quashed.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 498-A of the IPC is 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 ‘non-compoundable’ 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.107 dated 18.04.2019, registered under Sections 323, 354, 406, 498-A and 506 of the Indian Penal Code, at Police Station Chandimandir, District Panchkula, along with all other subsequent proceeding arising therefrom, is hereby quashed.

(PANKAJ JAIN)
JUDGE

11.03.2022
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No