

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

CRM-M-1261-2021 (O&M)

Date of Decision: 20.10.2023

KAPIL SHARMA

.... Petitioner

VERSUS

STATE OF HARYANA & ANR.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagjot Singh, Advocate for
Mr. Kunal Dawar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana-respondent No.1.

Mr. Shashikant Singh, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.1121 dated 10.12.2016 under Sections 354(A)(1), 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Ballabgarh City, Faridabad, along with all the subsequent proceedings arising therefrom, on the basis of compromise.

2. On 30.11.2022 the following order was passed :

“CRM-15565-2021

Application is allowed as prayed for.

Judgment and decree dated 05.05.2021 passed under Section 13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure P-4.

Main Case

Prayer in this petition is for quashing of FIR No.1121 dated 10.12.2016 under Sections 354 (A) (1), 406 and 498-A of IPC, 1860, registered at Police Station Ballabgarh City, Faridabad, Haryana, Annexure P-1, charges framed under Sections 406 and 498-A of IPC only, along with all consequential proceedings arising therefrom, on the basis of compromise, Annexure P-3.

Counsel for the petitioner submits that petitioner was married to respondent No.2 on 03.05.2015 at Faridabad, however, there is no issue out of the wedlock. He submits that due to ir-reconciliable differences between the parties, they separated and have been staying apart since December, 2016. By referring to the petition filed under Section 13-B of the Hindu Marriage Act, 1955, Annexure P-3, counsel submits that the matrimonial dispute has been settled, the petitioner has made the entire permanent alimony of Rs.6 lacs to

respondent No.2 and marriage has been dissolved by judgment and decree, Annexure P-4.

Upon instructions, State counsel submits that trial is underway.

Mr. Shashikant Singh, Advocate has put in appearance on behalf of respondent No.2 and has filed Memorandum of Appearance in Court, which is taken on record. He has admitted the statement made by counsel for the petitioner.

The parties and Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 20.01.2023 or on any day thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Area 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 Area Magistrate/Trial Court be awaited for 19.04.2023”

3. Pursuant to the order dated 30.11.2022, a report dated 06.09.2023 of the learned Judicial Magistrate, 1st Class, Faridabad has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have compromised the matter voluntarily without any threat, pressure, undue influence or fraud and that the complainant/respondent No.2 has no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

4. Learned counsel for the petitioner has also pointed out that the parties have since obtained a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955.

5. Learned counsel for respondent No.2 has reiterated that the parties have since compromised the matter and that he has no objection if the present FIR is quashed.

6. The Apex Court in the case of ***Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]*** has held 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 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-dominatingly 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 personal 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.”

7. Learned counsel for the petitioner has also referred to the law laid down by this Court in ***Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]*** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

8. In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

9. Resultantly, FIR No.1121 dated 10.12.2016 under Sections 354(A)(1), 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Ballabgarh City, Faridabad, along with all the subsequent proceedings arising therefrom, are quashed on the basis of compromise.

10. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

20.10.2023
Aman Jain

(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No