

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**273****CRM-M No.9000 of 2021****Date of Decision : 16.08.2023**

Gaurav Gautam and Others

....Petitioners

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr.Abhishek Chha, Advocate for the petitioners.

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

Mr. Vishal Nehra, 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.88 dated 05.02.2016 registered under Sections 498-A, 323, 377 and 406 of the Indian Penal Code, 1860 at Police Station Sonipat City, District Sonipat and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.12.2018 (Annexure P-2).

2. On 10.03.2021 the following order was passed :

“Prayer made in this petition is for quashing of FIR No.88 dated 05.02.2016, under Section(s) 498A,323,377,406 of the Indian Penal Code, registered at Police Station, Sonipat City, Sonipat as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Respondent No.2 is the wife of petitioner No.1. Matrimonial discord has resulted in settlement. First and second motion have already been recorded. Divorce has already been granted. The marriage between petitioner No.1 and respondent 2 has been dissolved by decree of divorce by mutual consent with effect from 23.01.2019 by the Judge Family Court (North-East Delhi, Rohini).

Notice of motion for 05.07.2021.

In the meanwhile, parties would appear before the Illaqa Magistrate on 26.03.2021 for recording their statements. The concerned Court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person.”

3. Pursuant to the order dated 10.03.2021, a report dated 31.03.2021 of the Judicial Magistrate 1st Class, Sonipat 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 petitioners has also pointed out that the parties have since obtained a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 on 23.01.2019.

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 petitioners 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.88 dated 05.02.2016 registered under Sections 498-A, 323, 377 and 406 of the Indian Penal Code, 1860 at Police Station Sonipat City, District Sonipat is quashed, including all subsequent

proceedings arising out of the said FIR, on the basis of compromise dated 13.12.2018 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

16.08.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO