

286

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8673-2021(O&M)
Date of decision : 07.11.2023

Hira Singh @ Dilbagh Singh & Ors.

... Petitioner(s)

Versus

State Of Punjab & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Arora, Advocate for the petitioners.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Ms. Muskan, Advocate for

Mr. Jagjeet 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.219 dated 15.05.2020 under Sections 376 and 120-B of the Indian Penal Code, 1860 (IPC), and Sections 4 and 8 of POCSO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 (offence under Section 376 IPC and Sections 4 and 8 of POCSO Act stand deleted), registered at Police Station Jhabal, District Tarn Taran, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 15.02.2021 (Annexure P-2).

2. On 10.04.2023 the following order was passed :

“The petitioners through instant petition, on the basis of compromise, are seeking quashing of FIR No.219 dated 15.05.2020 registered at Police Station Jhabal, District Tarn Taran, under Sections 376 and 120B of IPC, 1860 and Sections 4 and 8 of POCSO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 (offence under Section 376 of IPC, 1860 and Sections 4 and 8 of POCSO Act, 2012 stand deleted).

Notice of motion.

On the asking of Court, Mr. Shiva Khurmi, AAG, Punjab and Jagjeet Singh, Advocate accept notice on behalf of respondent No. 1 State and respondent No. 2 respectively. Power of attorney of respondent No.2 is taken on record.

Parties may appear before learned trial Court/Illaq Magistrate concerned on 17.04.2023 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said court. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report disclosing:

- i) genuineness and voluntary nature of compromise ;*
- ii) how many persons are nominated in FIR/police report;*
- iii) how many accused/victims out of total accused/victims have entered into compromise;*
- iv) if there is partial compromise, what is role of the accused;*

v) what is stage of trial, if accused already convicted, whether appeal is pending in Appellate Court;
vi) whether all accused/petitioners are appearing before the Court or are on bail; and
vii) whether any other proceeding is pending against the accused/petitioner.
Adjourned to 26.04.2023.”

3. Pursuant to the order dated 10.04.2023 a report dated 17.04.2023 of the Judicial Magistrate 1st Class, Tarn Taran 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. As per the report, petitioner No.2 - Mayea Kaur - has expired on 11.10.2022 and proceedings qua her stand abated vide order dated 03.01.2023.

4. 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.”

5. 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.

6. 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.

7. Resultantly, FIR No.219 dated 15.05.2020 under Sections 376 and 120-B of IPC and Sections 4 and 8 of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 (offence under Section 376 IPC and Sections 4 and 8 of POCSO Act stand deleted), registered at Police Station Jhabal, District Tarn Taran is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 15.02.2021 (Annexure P-2).

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

07.11.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

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