

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-10227-2023 (O&M)

Date of Decision : 16.11.2023

Manish Kumar

..... Petitioner

Versus

State of Haryana and Another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Lalit Kumar Narang, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Kushager Gogai, Advocate for the 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.472 dated 10.11.2021 registered under Sections 498-A, 323, 406, 506 of the Indian Penal Code, 1860 at Police Station Kalanaur, District Rohtak, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.02.2023 (Annexure P-2).

2. On 12.07.2023 the following order was passed :

“Vide order dated 02.03.2023, the parties were directed to appear before the learned Illaqa/Duty Magistrate concerned for recording of their statements.

It is submitted by learned counsel for the petitioner that as father of the petitioner was suffering from cancer and due to some communication gap between the counsel

and the parties, statements could not be recorded on the date so fixed.

Learned counsel for the parties seek one more opportunity to record their statements before the concerned Illaqa/Duty Magistrate.

Adjourned to 16.11.2023.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaqa Magistrate for recording of their statement with regard to the compromise dated 13.02.2023 (Annexure P-2) on 25.07.2023 by moving an appropriate application or by presenting this order. The trial Court/Illaqa Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a 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 FIR or not; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all*

the victims/complainants as well as accused are party to the compromise in question.

A copy of the report be sent through fax, to the Registrar (Judicial) of this Court.”

3. Pursuant to the order dated 12.07.2023, a report dated 03.08.2023 of the Civil Judge (Jr. Division)-cum-JMIC, Rohtak 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.472 dated 10.11.2021 registered under Sections 498-A, 323, 406, 506 of the Indian Penal Code, 1860 at Police Station Kalanaur, District Rohtak is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.02.2023 (Annexure P-2).

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

16.11.2023
Deepak Patwal

(ALKA SARIN)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No