

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

302

CRM-M No.10790 of 2023

Date of Decision : 17.07.2023

Mayank Sharma

....Petitioner

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rahul Makkar, Advocate for the petitioner.

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

Mr. Surinder Gaur, Advocate for
Mr. Vikas Kumar, 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.0344 dated 01.10.2020 registered under Sections 313, 323, 34, 377, 406, 498-A and 506 of the Indian Penal Code, 1860 (Sections 313, 377 and 34 IPC were deleted later on) at Police Station Arya Nagar Rohtak, District Rohtak and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 16.02.2023 (Annexure P-2).

2. On 01.03.2023 the following order was passed :

“This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.0344 dated 01.10.2020, registered under Sections 313, 323, 34, 377, 406, 498-A and 506 IPC (Sections 313, 377 and 34 IPC have been deleted in the challan) at Police Station Arya Nagar

Rohtak, District Rohtak (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise said to have been entered into between the parties dated 16.02.2023 (Annexure P-2).

Notice of motion.

Ms. Mahima Yashpal, Deputy Advocate General, Haryana, appears and accepts notice on behalf of respondent No.1-State. Mr. Vikas Kumar, Advocate has put in appearance on behalf of respondent No.2, by filing power of attorney and the same is taken on record.

Let the parties appear before the trial Court/Duty Magistrate on 30.03.2023 or any other date convenient to the Court, for recording their statements with regard to compromise. The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties: The trial Court/Duty Magistrate shall also furnish the following information:

- 1. Whether there is any other accused, apart from the petitioners arrayed in this petition.*
- 2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.*
- 3. Whether the parties are involved in any other criminal case.*

4. *Whether any of the parties has been declared a proclaimed offender.*

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e., 17.07.2023.”

3. Learned counsel for the petitioner states that the parties have resolved all their issues and are now living together.

4. Learned counsel appearing on behalf of complainant/respondent No.2 also reiterates that the parties have amicably settled all their disputes and are now living together and that he has no objection if the present FIR is quashed.

5. Pursuant to order dated 01.03.2023, report dated 03.04.2023 of the Judicial Magistrate Ist Class, 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 with their sweet will, full consent and without any pressure or any influence 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.

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.0344 dated 01.10.2020 registered under Sections 313, 323, 34, 377, 406, 498-A and 506 of the Indian Penal Code, 1860 (Sections 313, 377 and 34 IPC were deleted later on) at Police Station Arya Nagar Rohtak, District Rohtak is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 16.02.2023 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

17.07.2023

jk

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