

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**288****CRM-M No.15943 of 2021****Date of Decision: 07.11.2023**

Vishvender

....Petitioner

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Rajni Bala Rohilla, Advocate for
Mr. Shokeen Singh Verma, Advocate for the petitioner.

Ms. Jasleen Chahal, AAG Haryana for respondent No.1.

Ms. Gurmeet Kaur Dhillon, 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.044 dated 25.12.2018 registered under Sections 354, 376, 377, 384, 498-A, 506, 511 and 34 of the Indian Penal Code, 1860 and Section 67 of the Information Technology Act, 2000 at Police Station Women Police Station, District Chahkhi Dadri (during investigation it was found that the offence under Sections 354, 376, 384, 511 and 34 IPC was not made out), and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 04.03.2021 (Annexure P-2).

2. On 06.12.2022 the following order was passed :

“Prayer in this petition is for quashing of FIR

No.44 dated 25.12.2018 under Sections 354, 376, 377,

384, 498-A, 506, 511 and 34 of IPC, 1860, and Section 67 of Information Technology Act, 2008, registered at Women Police Station, District Charkhi Dadri, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 04.03.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that matrimonial dispute has been settled by compromise, Annexure P-2.

State-respondent No.1 has filed reply by way of an affidavit of Deputy Superintendent of Police, HQ, Charkhi Dadri, which is taken on record.

Upon instructions from SI/SHO Sonia, State counsel submits that charges have been framed and some prosecution witnesses have been examined.

Ms. Gurmeet Kaur, Advocate has put in appearance on behalf of respondent No.2 and has filed Memorandum of Appearance in Court, which is taken on record. She admits the factum of compromise.

The parties and Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 20.12.2022 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 11.07.2023.

Judgment and decree of divorce be brought on the record before the next date.”

3. Pursuant to the order dated 06.12.2022, a report dated 12.05.2023 of the Judicial Magistrate 1st Class, Charkhi Dadri 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 she 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.044 dated 25.12.2018 registered under Sections 354, 376, 377, 384, 498-A, 506, 511 and 34 of the Indian Penal

Code, 1860 and Section 67 of the Information Technology Act, 2000 at Police Station Women Police Station, District Chahkhi Dadri (During investigation it was found that the offence under Sections 354, 376, 384, 511 and 34 IPC was not made out) is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 04.03.2021 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

07.11.2023
jk

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