

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**286****CRM-M No.18126 of 2023****Date of Decision : 02.11.2023**

Mohit Kumar and Others

....Petitioners

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. L.S. Mann, Advocate for the petitioners.

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

Ms. Chhavi Sharma, Advocate for
Dr. Hardeep 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.38 dated 23.03.2022 registered under Sections 498-A and 406 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 17.06.2022 (Annexure P-2).

2. On 17.04.2023 the following order was passed :

“The petitioners through instant petition, on the basis of compromise, are seeking quashing of FIR No.38 dated 23.03.2022 (Annexure P-1), registered at Police Station City Phagwara, District Kapurthala, under Sections 498A and 406 of IPC, 1860.

Notice of motion.

On the asking of Court, Mr. Amish Sharma, AAG, Punjab and Ms. Chhavi Sharma, 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 24.05.2023 or any other date convenient to said Court and get their statements recorded with regard to compromise. 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 26.07.2023.

No coercive step is taken against petitioner No.3 as and when he would come to make the statement before the Trial Court.”

3. Pursuant to the orders dated 17.04.2023 and 26.07.2023, a report dated 06.06.2023 of the Sub Divisional Judicial Magistrate, Phagwara 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 a petition under Section 13-B of the Hindu Marriage Act, 1955 has been filed by the parties wherein their statements of the second motion stand recorded.

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.38 dated 23.03.2022 registered under Sections 498-A and 406 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 17.06.2022 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

02.11.2023

jk

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