

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

293

**CRM-M-31194-2022 (O&M)
Date of Decision: 07.11.2023**

SARVESH KUMAR

.... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Punit Malik, Advocate for the petitioner.

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

Mr. Naveen Siwach, 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.154 dated 22.06.2021 under Section 376(2)(n), 323 of the Indian Penal Code, 1860 registered at Police Station DLF Phase-3, Gurugram, along with all the subsequent proceedings arising therefrom, on the basis of compromise dated 11.07.2022 (Annexure P-2).

2. On 11.04.2023 the following order was passed :

“Learned counsel for the petitioner as well as respondent No.2/complainant submit that the petitioner and the complainant have married after lodging of the FIR and are staying together.

The fact of marriage has not been disputed by learned State counsel on the basis of the status report dated 09.04.2023 filed by him, which is taken on record.

Relevant paragraph No.7 of the reply reads as under:-

That concededly the petitioner has solemnized marriage with the prosecutrix at Arya Samaj Vivah Sthal Trust, Delhi on 24.02.2021 and his statement to this effect has been recorded. Further the prosecutrix is staying at Sundergah Orissa and she has electronically transmitted her statement to the effect of compromise via Whatsapp to the investigator contending that she had married the petitioner consequent upon a compromise between them on 24.02.2023.

In view thereof, the parties are directed to appear before the trial Court/Duty Magistrate on 03.05.2023 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., 24.08.2023.”

3. Pursuant to the order dated 11.04.2023, a report dated 20.05.2023 of the learned Additional District and Sessions Judge, Gurugram 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 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 relies upon the judgment delivered by the Hon’ble Supreme Court in ***Ananda D.V. Vs. State & Anr.*** [2021 SCC OnLine SC 3423] to contend that where after registration of the FIR the parties have since settled their disputes and are now happily married

and living together, the FIR under Section 376 of IPC can be quashed on the basis of compromise.

5. Learned counsel for respondent No.2 has reiterated that the parties have since compromised the matter and are living happily together 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.154 dated 22.06.2021 under Section 376(2)(n), 323 of the Indian Penal Code, 1860, registered at Police Station DLF Phase-3, Gurugram, along with all the subsequent proceedings arising therefrom, are quashed, on the basis of compromise dated 11.07.2022 (Annexure P-2).

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

07.11.2023

Aman Jain

(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No