

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

306

CRM-M-33376-2023 (O&M)

Date of Decision : 18.12.2023

BALJINDER KAUR & ORS.

.... Petitioners

VERSUS

STATE OF PUNJAB & ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Dhillon, Advocate for the petitioners.

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

Mr. Satpal Dhaiya, Advocate for
Mr. Ashwani Talwar, 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.0002 dated 07.01.2022 registered under Sections 420, 498-A and 120-B of the Indian Penal Code, 1860 at Police Station NRI, District Police Commissionerate Ludhiana, District Ludhiana, along with all the subsequent proceedings arising out of the said FIR, on the basis of compromise dated 28.03.2023 (Annexure P-2).

2. On 17.07.2023 the following order was passed :

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0002 dated 07.01.2022 under Sections 420, 498-A and 120-B of the Indian Penal Code, 1860 registered at Police Station NRI, District Police

Commissionerate, Ludhiana, District Ludhiana, and all other consequential proceedings arising there-from on the ground that the parties have since compromised the matter vide compromise deed dated 28.03.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise deed dated 28.03.2023 has been appended with the present petition as Annexure P-2. Learned counsel has further stated that the parties have also obtained divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Sahej Mahajan, Advocate for Mr. Ashwani Talwar, Advocate accepts notice for respondent No.2.

Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has reiterated that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P-2 with the petition. He further states that the divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955 has also been obtained by the parties. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 07.11.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 07.08.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing :

- 1) Whether the settlement/compromise dated 28.03.2023 (Annexure P-2) has been freely entered*

into between the parties without any undue influence, coercion or pressure of any kind.

2) Whether any other criminal cases are pending against the parties.

3) Whether any proclamation proceedings are pending against either of the parties."

Thereafter vide order dated 07.11.2023, the following order was passed:-

"Learned counsel for the petitioners has contended that respondent No.2 did not appear to get her statement recorded and was demanding the balance amount of Rs.5 lakhs, which was to be paid at the time of passing of the final order by this Court at the time of quashing of the FIR. Learned counsel for the petitioners has handed over a demand draft No.338028 dated 03.08.2023 amounting to Rs.5,00,000/- in the name of respondent No.2 which shall be handed over to respondent No.2 at the time of passing of the final order by this Court.

The demand draft be kept in the safe custody of the Registrar (Judicial) of this Court.

List on 18.12.2023.

The parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 15.11.2023 for recording of their statements in terms of the order dated 17.07.2023 passed by this Court."

3. Pursuant to the order dated 17.07.2023, a report dated 13.10.2023 of the learned Chief Judicial Magistrate, Ludhiana 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. 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.”

5. Learned counsel for the petitioners 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.

6. 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.

7. Resultantly, FIR No.0002 dated 07.01.2022 registered under Sections 420, 498-A and 120-B of the Indian Penal Code, 1860 at Police Station NRI, District Police Commissionerate Ludhiana, District Ludhiana, along with all the subsequent proceedings arising out of the said FIR, are quashed, on the basis of compromise dated 28.03.2023 (Annexure P-2).

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

9. Demand draft of Rs.5,00,000/- which was kept in the safe custody of the Registrar (Judicial) of this Court pursuant to the order dated 07.11.2023, shall be released to respondent No.2 against proper receipt and identification.

18.12.2023

Aman Jain

(ALKA SARIN)

JUDGE

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