

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**121+286-1****CRM-M No.35260 of 2022****Date of Decision : 17.07.2023**

Bhushan Kochhar and Others

....Petitioners

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Rajvinder Kaur Sohal, Advocate for the petitioners.

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

Ms. Pushpinder Kaur, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)**CRM-9994-2023**

1. This is an application for amendment of the head note and prayer clause to the extent of addition of offence under Section 354-A of the Indian Penal Code, 1860 (for short 'IPC') in the present petition.

2. For the reasons stated in the application, the same is allowed as prayed for. CRM stands disposed off.

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3. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.418 dated 06.10.2021 registered under Sections 120-B, 406, 498-A, 506 and 354-A of the Indian Penal Code, 1860 at Police Station Baldev Nagar, District Ambala and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 03.08.2022 (Annexure P-2).

4. On 09.08.2022, the following order was passed :

“The petitioners are seeking to quash the FIR No.418, dated 06.10.2021 registered under Sections 120-B, 406, 498-A and 506 IPC at Police Station Baldev Nagar, District Ambala (Annexure P-1) and all subsequent proceedings emanating therefrom, on the basis of compromise (Annexure P-2).

Learned counsel for the petitioners contend that the matrimonial dispute has been amicably settled between the parties in terms of the compromise (Annexure P-2). Besides, the petitioners and other persons named in the FIR, have been found to be innocent during the investigation. The marriage of petitioner No.1 was solemnized with respondent No.2 on 31.01.2009 and a male child has been born from the wedlock. The respondent No.2 along with the minor child is happily residing in the matrimonial house with petitioner No.1.

Notice of motion.

Mr. Zorawar Singh Chauhan, DAG Haryana, who is present in the Court accepts notice on behalf of State of Haryana.

Mr. Ajay Kumar Dahiya, Advocate has filed Vakalatnama on behalf of respondent No.2-complainant and admits the factum of amicable settlement between the parties.

In view of the same, parties are directed to appear before the Illaqa Magistrate/trial Court on 06.09.2022 to get their statement(s) recorded with regard to compromise/settlement dated 03.08.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arraigned as accused in FIR;*
- 2. Whether any accused is proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not;*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

The report of the Illaqa Magistrate/trial Court be awaited for 07.11.2022.”

5. Pursuant to order dated 09.08.2022, report dated 23.09.2022 of the Judicial Magistrate, Ist Class, Ambala 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 fear or coercion 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 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.

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.418 dated 06.10.2021 registered under Sections 120-B, 406, 498-A, 506 and 354-A of the Indian Penal Code, 1860 at Police Station Baldev Nagar, District Ambala is quashed, including all

subsequent proceedings arising out of the said FIR, on the basis of compromise dated 03.08.2022 (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