

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-35947-2022 (O&M)
Date of Decision : 06.09.2023

Satpal and Another

....Petitioners

VERSUS

The State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ravinder Singh, Advocate for the petitioners.

Mr. H.S.Sidhu, AAG Punjab for respondent No.1.

Mr. N.P.Chandel, Advocate for respondent No.2.

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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.127 dated 02.11.2013 registered under Sections 406, 498-A of the Indian Penal Code, 1860 at Police Station Balachaur, District Shaheed Bhagat Singh Nagar, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.07.2022 (Annexure P-2).

2. On 16.08.2023 the following order was passed :

“Petitioners are seeking to quash the FIR No.127 dated 02.11.2013, under Sections 406/498-A IPC, 1860 registered at Police Station Balachaur, District Shaheed Bhagat Singh Nagar and all the subsequent proceedings arising therefrom on the basis of compromise having been effected between the parties.

Learned counsel for the petitioners contend that the marriage of petitioner No.1 was solemnized with respondent No.2 on 19.11.2011 and no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise dated 13.07.2022 (Annexure P-2). Petitioner No.1 and respondent No.2 have instituted a petition under Section 13-B of Hindu Marriage Act for dissolution of marriage by mutual consent wherein, the statements of the parties at the stage of first motion have been recorded. Petitioner No.1 shall pay a sum of Rs. 3,00,000/- on account of permanent alimony to respondent No.2 and a sum of Rs.1,50,000/- has already been paid. No other case is pending between the parties.

Notice of motion.

Ms. Ruchika Sabherwal, AAG, Punjab accepts notice on behalf of the respondent-State.

Ms. Mainka Rani, Advocate has put in appearance on behalf of respondent No.2 and filed power of attorney. She has acknowledged the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 13.09.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any date convenient to 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.*

To await the report, list again on 22.11.2022.”

3. Thereafter on 23.01.2023, the following order was passed:-

“Vide report dated 18.11.2022 received by the Judicial Magistrate 1st Class, Balachaur, it has been submitted that the complainant Mainka Rani, daughter of Bal Kishan did not turn up for recording of her statement in compliance of the order dated 16.08.2022 passed by this Court. However, the statements of the petitioners were duly recorded.

Counsel for respondent No.2 submits that respondent No.2 is ready to appear before the trial Court and record her statement, however, one opportunity may be granted.

Request allowed subject to cost of Rs.10,000/- to be deposited in the following account:-

Account Name - Punjab and Haryana High Court Bar Association Lawyer's Family Welfare Fund.

Account No. - 41564846387

Bank Name - SBI High Court Branch.

Adjourned to 17.04.2023.

In the meanwhile, respondent No.2 is directed to appear before the concerned Illaqa/Duty Magistrate on

09.02.2023 for recording her statements, as per order dated 16.08.2022, passed by this Court.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

4. Pursuant to the order dated 23.01.2023, a report dated 13.03.2023 of the Judicial Magistrate 1st Class, Balachaur 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.

5. 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.

6. Learned counsel for respondent No.2 has reiterated that the parties have since compromised the matter and that he has no objection if the present FIR is quashed.

7. 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.”

8. 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.

9. 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.

10. Resultantly, FIR No.127 dated 02.11.2013 registered under Sections 406, 498-A of the Indian Penal Code, 1860 at Police Station Balachaur, District Shaheed Bhagat Singh Nagar is quashed, including all

subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.07.2022 (Annexure P-2).

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

September 06, 2023
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(ALKA SARIN)
JUDGE

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