

CRM-M-42135-2020 (O&M)

1

288

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42135-2020 (O&M)
Date of decision : 20.12.2023

Lakhpal Singh & Ors. ... Petitioner(s)
Versus
State of Punjab & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Arora, Advocate for the petitioners.
Mr. Harjinder Singh Sidhu, AAG, Punjab for respondent No.1.
Ms. Muskan, 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.216 dated 01.12.2019 registered under Section 498-A of the Indian Penal Code, 1860 and Section 13 of the Protection of Women from Domestic Violence Act, 2005 at Police Station Goindwal Sahib, District Tarn Taran (Annexure P-1), and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 14.08.2020 (Annexure P-2).
2. On 15.12.2020 the following order was passed :
- “All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.*

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between the petitioners and respondent no.2, of FIR No.216 dated 01.12.2019, registered at Police Station Goindwal Sahib, District Tarn Taran, for the alleged commission of an offence punishable under Section 13 of the Protection of Women from Domestic Violence Act, 2005, as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab, accepts notice at the asking of the court on behalf of respondent no.1.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

Respondent no.2 be served by way of normal process by the next date of hearing.

Adjourned to 12.02.2021.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned trial court/Ilaqa Magistrate upto 11.01.2021 to record their statements. The trial court/Ilaqa Magistrate would satisfy itself/herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the

compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is also directed to file a reply to the petition.”

3. Pursuant to the order dated 15.12.2020 a report dated 05.02.2021 of the Sub Divisional Judicial Magistrate, Khadur Sahib, 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 petitioners has also pointed out that the parties have since obtained a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955.

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-dominantly 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.216 dated 01.12.2019 registered under Section 498-A of IPC and Section 13 of the DV Act at Police Station Goindwal Sahib, District Tarn Taran (Annexure P-1) is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 14.08.2020 (Annexure P-2).
10. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

20.12.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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