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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37759-2019 (O&M)
Date of decision : 19.07.2023

Kamaljeet Kumar & Anr. ... Petitioner(s)

Versus

State of Punjab & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjeev Kumar, Advocate for petitioner No.1.
Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.
Ms. Meenakshi Singh, Advocate for
Mr. Sidharth Sharma, 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.0084 dated 17.10.2018 registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Police Commissionerate Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 06.03.2019 (Annexure P-2).

2. On 01.09.2022 the following order was passed :

*“At the outset, counsel for the petitioners submits that as petitioner No.2 has expired, he may be granted permission to withdraw the petition qua her.
Dismissed as withdrawn qua petitioner No.2.*

Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.0084 dated 17.10.2018 registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Police Commissionerate Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 06.03.2019 (Annexure P-2).

Counsel for petitioner No.1 submits that FIR is an outcome of a matrimonial dispute between petitioner No.1 and complainant-respondent No.2, which has been settled by compromise (Annexure P-2). He submits that in terms of the compromise, a petition seeking divorce under Section 13-B of Hindu Marriage Act, 1955 has been instituted and part-payment out of the agreed permanent alimony of Rs.7.25 lacs has been made. By referring to para 5 of the compromise, counsel submits that custody of both children born out of the wedlock is to remain with the complainant-respondent No.2.

Upon instructions from ASI Meet Ram, State counsel submits that matter is under investigation.

Counsel representing the complainant-respondent No.2 has admitted the factum of compromise and supported the prayer made in the petition.

The parties and Investigating Officer are directed to appear before the Trial Court/Area Magistrate on 17.10.2022 or on any day thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Area Magistrate shall submit a report specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements

and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties.

5. whether any other criminal case is pending against the accused

The Trial Court shall make necessary arrangements for recording of the statement of petitioner No.1 through video conferencing as he is stated to be in Bahrain. A relative of petitioner No.1 or counsel representing him before the Trial Court, shall remain present at the time of recording of statement for the purpose of his identification.

Report of Trial Court/Area Magistrate be awaited for 08.12.2022.

Judgment and decree of divorce, if passed, be placed on record before the next date.”

3. Pursuant to the order dated 01.09.2022, a report dated 05.12.2022 of the Judicial Magistrate 1st Class, 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 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.

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.0084 dated 17.10.2018 registered under Sections 406, 498-A of Indian Penal Code, 1860 at Police Station Women, District Police Commissionerate Ludhiana (Annexure P-1) is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 06.03.2019 (Annexure P-2).

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

19.07.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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