

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

324

CRM-M-43706-2023 (O&M)

Date of Decision: 07.12.2023

Nikhil Kalra and Another

..... Petitioner(s)

Versus

State of Haryana and Another

..... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Bhardwaj, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG Haryana for respondent No.1.

Mr. Jatinder Pal Singh, 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.38 dated 13.02.2020 registered under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Kosli District Rewari, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 21.03.2023 (Annexure P-2).

2. On 02.09.2023, the following order was passed :

“This is a petition under Section 482 Code of Criminal Procedure, 1973 for quashing of FIR No.38 dated 13.02.2020 registered under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Kosli District Rewari, and all subsequent proceedings arising out of the said FIR, on the basis of a compromise entered into between the parties.

Learned counsel for the petitioners would contend that in the petition filed under Section 13-B of the Hindu Marriage Act, 1955, a joint statement of the parties on the first motion has been recorded on 21.03.2023, which has been appended with the petition as Annexure P-2. As per the said statement, the parties have compromised the matter and a lump sum amount of Rs.17,50,000/- is to be paid to respondent No.2 as permanent alimony out of which Rs.8,75,000/- already stands paid to respondent No.2 at the time of recording of the statement on the first motion and the remaining amount would be paid at the time of recording of the statement on the second motion. 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.

Ms. Mahima Yashpal, DAG Haryana, who is present in Court, accepts notice on behalf of the respondent No.1-State.

Mr. Jatinder Pal Singh, Advocate has put in appearance on behalf of respondent No.2 and seeks some time to file his power of attorney. He has also reiterated that the parties have since entered into the compromise voluntarily and willingly and that respondent No.2 would have no objection if the aforesaid FIR is quashed on the basis of compromise as referred to in the first motion statement of the parties recorded in the petition under Section 13-B of the Hindu Marriage Act, 1955 on 21.03.2023.

List on 07.12.2023.

Meanwhile, the petitioners and respondent No.2 shall appear before the concerned CJM/Illaq Magistrate/Trial Court on 26.09.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record 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 as recorded in the first motion statement dated 21.03.2023 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.”*

3. Pursuant to the order dated 02.09.2023, a report dated 05.10.2023 of the Sub-Divisional Judicial Magistrate, Kosli 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 he 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-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.38 dated 13.02.2020 registered under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Kosli District Rewari, is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 21.03.2023 (Annexure P-2).

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

07.12.2023

Deepak Patwal

**(ALKA SARIN)
JUDGE**

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