

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M-52586-2021 (O&M)

Date of Decision : 02.12.2023

VARUN GOYAL

.... Petitioner

VERSUS

STATE OF PUNJAB & ANR.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Neeraj Malhotra, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab for respondent No.1.

Mr. Vikram Preet Arora, 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.009 dated 13.01.2021 registered under Sections 419 and 509 of the Indian Penal Code, 1860 and Section 66(D) of the Information and Technology Act, 2000 at Police Station Sarabha Nagar, District Police Commissionerate Ludhiana, along with all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.09.2021 (Annexure P-2).

2. On 17.12.2021 the following order was passed :

*“Instant petition has been filed under Section 482
Cr.P.C for quashing of FIR No.009 dated 13.01.2021
registered under Sections 419, 509 of Indian Penal
Code, 1860 and Section 66(D) of Information*

Technology Act, 2000 at Police Station Sarabha Nagar, District Police Commissionerate Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 13.09.2021 (Annexure P-2) arrived at between the parties.

Counsel for the petitioner submits that marriage of the petitioner was solemnized with the complainant-respondent No.2 on 04.02.2011 and two sons were born out of the wedlock, but due to temperamental differences, the parties started living separately from 17.08.2018. He submits that disputes between the parties led to filing of multiple litigation and seven cases are pending inter se before various Courts. He submits that all the disputes between the parties have been resolved by virtue of compromise (Annexure P-2), whereunder, the petitioner has agreed to pay a sum of Rs.1,05,00,000/- (Rupees one crore and five lacs only) to the complainant-respondent No.2. A petition under Section 13-B of Hindu Marriage Act, 1955 has been filed, first motion has been recorded and a sum of Rs.25.00 lacs has been paid to the complainant-respondent No.2. By referring to the terms of the compromise, he further submits that it has been agreed between the parties that custody of both the children will remain with the petitioner and the complainant-

respondent No.2 will not claim their custody or restitution rights qua them. Counsel has invited the attention of the Court to para 10 of the petition to submit that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr.Anmol Singh Sandhu, AAG, Punjab accepts notice on behalf of respondent No.1-State. Mr.Vikram Preet Arora, Advocate has put in appearance on behalf of the complainant-respondent No.2 and has filed his 'Memorandum of Appearance', which is taken on record. He has admitted the factum of compromise as well as the statement made by counsel for the petitioner.

The parties and Investigating Officer are directed to appear before the trial Court/Illaq Magistrate on 18.02.2022 or on any date thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Duty Magistrate/Illaq Magistrate shall submit the report on or before the next date of hearing 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.

Report of trial Court/Illaqa Magistrate be awaited for 21.04.2022.

As the parties have wasted valuable time by invoking the jurisdiction of different Courts in as many as 08 cases, including the present one, the Court deems it appropriate to direct the petitioner to deposit costs of Rs.50,000/- with the Poor Patient Welfare Fund, PGIMER, Sector 12, Chandigarh. The receipt of the deposit shall be furnished by the petitioner before the trial Court on the date of his appearance and the same shall be a condition precedent to the recording of the statements of the parties.”

3. Pursuant to the order dated 17.12.2021, a report dated 09.05.2022 of the learned Chief Judicial Magistrate, 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 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.009 dated 13.01.2021 registered under Sections 419 and 509 of the Indian Penal Code, 1860 and Section 66(D) of the Information and Technology Act, 2000 at Police Station Sarabha Nagar,

District Police Commissionerate Ludhiana is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.09.2021 (Annexure P-2).

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

02.12.2023*Deepak Patwal***(ALKA SARIN)
JUDGE**

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