

CRM-M-46399-2022 (O&M)

1

281

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46399-2022 (O&M)
Date of decision : 17.07.2023

Harpreet Julka

... Petitioner(s)

Versus

State Of Punjab & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Nandani Sharma, Advocate for
Mr. Umesh Aggarwal, Advocate for the petitioner.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Ms. Aayushi Jindal, Advocate for
Mr. Prateek Sodhi, 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.61 dated 31.07.2015, under Sections 406/498-A of the Indian Penal Code, 1860 (IPC), registered at Police Station Women, District Amritsar, along with all consequential proceedings arising therefrom, on the basis of compromise dated 08.09.2022 (Annexure P-3).

2. On 31.10.2022 the following order was passed :

“Petitioner has filed the present petition seeking quashing of FIR No.61 dated 31.07.2015, under Sections 406/498-A of IPC, registered at Police Station Women, District Amritsar, along with all consequential

proceedings arising therefrom on the basis of compromise (Annexure P-3).

Learned counsel for the petitioner has submitted that this is the second petition filed by the petitioner.

He has submitted that on the earlier occasion the parties approached this Court by way of filing petition bearing CRM-M No.5991 of 2017, which was withdrawn on 04.02.2019.

He has submitted that the dispute has arisen out of a matrimonial discord which is totally private in nature.

He submits that now a petition under Section 13-B of the Hindu Marriage Act, 1955, has been filed for dissolving the marriage of the parties by a decree of divorce and the first motion statement of the parties has already been recorded and the case is now fixed for recording the second motion statement.

He submits that now the matter has been resolved amicably, hence the prosecution of the petitioner is nothing but an abuse of the process of the Court.

Notice of motion.

Mr. Sandeep Kumar, DAG, Punjab, accepts notice on behalf of the respondent State. Mr. Prateek Sodhi, Advocate accepts notice on behalf of respondent No.2 and he has endorsed the contention raised by learned counsel for the petitioner and has not denied the factum of compromise effected between the parties.

Adjourned to 20.02.2023.

In the meanwhile, both the parties are directed to appear before the concerned trial Court/Illaq Magistrate on 30.11.2022 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free

will of the parties. It would also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case. The trial Court/Illaq Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court. The State to file status report before the next date of hearing.”

3. Pursuant to the order dated 31.10.2022, a report dated 05.01.2023 of the Judicial Magistrate 1st Class, Amritsar, 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 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 on 16.03.2023.

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-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 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.

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.

CRM-M-46399-2022 (O&M)

6

9. Resultantly, FIR No.61 dated 31.07.2015, under Sections 406/498-A of the Indian Penal Code, 1860 (IPC), registered at Police Station Women, District Amritsar, is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 08.09.2022 (Annexure P-3).

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

17.07.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

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