

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46458-2022 (O&M)

Date of decision : 11.08.2023

Sukhjinder Pal Singh & Anr.

... Petitioner(s)

Versus

State of Punjab & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Mahal, Advocate for the petitioners.

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

Mr. G.S. Bajwa, Advocate for
Mr. Paras Jagga, 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.0094 dated 07.05.2022 under Sections 498-A, 406 of the Indian Penal Code, 1860 (IPC) registered at Police Station City Gurdaspur, District Gurdaspur and all other consequential proceedings arising therefrom, on the basis of a compromise dated 11.08.2022 (Annexure P-2).

2. On 11.10.2022 the following order was passed :

“The present petition has been filed for quashing of FIR No.0094 dated 07.05.2022 under Sections 498-A, 406 IPC registered with Police Station City Gurdaspur, District Gurdaspur and all other consequential proceedings arising therefrom, on the basis of

compromise dated 11.08.2022 (Annexure P-2), entered into between the parties.

Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into compromise (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Kirat Singh Sidhu, DAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Paras Jagga, Advocate, accepts notice on behalf of respondent No.2. He does not dispute the above said compromise, which has been arrived at between the parties, according to which, complainant does not wish to press the allegations alleged in the FIR any further.

Adjourned to 14.03.2023.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statement with regard to compromise/settlement (Annexure P-2) on 31.10.2022 by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information in a tabulated form:-.

- 1. Number of persons arrayed accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*

5. The statements of the complainant and all the victims/persons aggrieved shall be recorded by the Trial Court;

6. The Trial Court is also directed to record the statement of the Investigating Officer/any other officer aware of the facts of the case so as to know how many victims/complainants are there in the FIR and whether all the victim/complainant as well as accused are party to the compromise in question.

The question of imposition of costs for wasting the valuable time of the police as well as the Court will be assessed and imposed at the time of the final hearing of the present petition, in case, the FIR is to be quashed.”

3. Pursuant to the order dated 11.10.2022 a report dated 16.11.2022 of the Chief Judicial Magistrate, Gurdaspur 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 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.

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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.0094 dated 07.05.2022 under Sections 498-A, 406 of IPC registered at Police Station City Gurdaspur, District Gurdaspur is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of a compromise dated 11.08.2022 (Annexure P-2).

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

11.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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