

**251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44551-2023 (O&M)

Date of Decision: 15.12.2023

ROSHAN LAL AND OTHERS

.....PETITIONERS

Vs.

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. S.S. Rangi, Advocate,
for the petitioners.

Mr. Kirpal Singh Thakur, A.A.G., Haryana.

Mr. Ashok Kumar Sharma, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN J. (ORAL)

[1] The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 67 dated 13.03.2023, registered at Police Station Munak, District Karnal, under Sections 323, 354-A, 354-C, 498-A and 506 of the IPC read with Section 34 thereof (Sections 313 and 376 IPC were added later on and thereafter, Section 313 IPC was deleted), on the basis of a compromise dated 11.08.2023 (Annexure P-2) between the parties.

[2] Reply dated 13.12.2023, by way of an affidavit of Sh. Suresh Kumar, HPS, Deputy Superintendent of Police, Gharuanda, District Karnal, has been filed by learned State counsel on behalf of respondent No. 1-State in Court today. The same is taken on record.

[3] As per the aforesaid reply, though the FIR was registered under Section 376 IPC but the dispute was actually matrimonial. Initially the FIR was registered under Sections 323/34/354-A/354-C/498-A/506

IPC. However, later on after recording the statements of the complainant-respondent No. 2 under Section 164 Cr.P.C., the offence under Section 376 IPC was added in the present case on 15.03.2023 and thereafter, the offence under Section 313 IPC was added on 30.03.2023. The investigation is complete and the 'challan' is stated to have been presented before the trial Court.

[4] On 11.09.2023, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise.

[5] The report dated 06.11.2023 of the Judicial Magistrate, Ist Class, Assandh, through the District & Sessions Judge, Karnal, has been received. As per said report, the compromise between the parties is genuine. The relevant portion of the said report reads as under:-

“Besides recording the statements of the parties as mentioned above, I also duly enquired about the compromise between two sides independently from the complainant and the accused as well as their respective counsel. Both the counsel representing the parties have stated that the matter has been compromised between the parties and there is no ill will between the two sides. So, after perusal of the statements of the parties and after enquiring from the parties independently, as well as their counsel. I am of the opinion that the compromise arrived at between the parties is genuine, bonafide, without any pressure and voluntary between the parties. Both the parties requested that the present FIR no. 67 dated 13.3.2023 under sections 323/34, 354 A, 354C, 498A, 376 and 506 of IPC be quashed. The compromise arrived at between the parties is genuine, bonafide, without any pressure and voluntary between the parties.

XXXX

XXXX

XXXX

XXXX

“In this regard, it is respectfully submitted that in the present FIR no. 67 dated 13.3.2023 under sections 323/34, 354 A, 354C, 498A, 376 and 506 of IPC P.S.Munak, there are four accused namely Gurcharan Singh son of Roshan Lal, Roshan Lal son of Khan Chand, Rekha Rani wife of Roshan Lal and Shano Devi @ Shan Kaur wife of Khan Chand, All residents of Village Ugala, Tehsil Barara, District Ambala are appeared before the court and are on bail for getting recorded his statement in compliance of order passed in CRM-M-No.44551-2023 dated 11.9.2023 by Hon'ble Punjab & Haryana High Court, Chandigarh. The compromise arrived at between the parties is genuine, bonafide, without any pressure and voluntary between the parties.

Further, there is no other accused in the FIR except the four accused and the petition under section 482 Cr.PC for quashing of FIR no 67 dated 13.3.2023 under sections 321/34, 354 A, 354C, 498A, 176 and 506 of IPC P.S.Munak has been filed by the sole accused persons. Further. there are four accused in the said FIR and no one has been declared proclaimed offender. The statement of I.O. has been recorded in this regard who has also revealed that in the present FIR, there is one complainant/victim namely Anjali daughter of Tarsem Lal. Further, all the complainant/victim has been impleaded as respondent in the petition under section 482 Cr.P.C.”

[6] Hon'ble the Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and others** 2007 (3) RCR (Criminal) 1052, has held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offences and quash the proceeding where the High Court is of the opinion that it is required to prevent the abuse of process of law or otherwise to secure the ends of justice.

[7] The Hon'ble Delhi High Court in **Arshad Ahmad and and others vs. State NCT of Delhi and another** 2022 (4) JCC 2604, while

dealing with quashing proceedings where charge-sheet was filed under Section 376 IPC as well observed that now a days Sections 376 and 354 IPC are being used along with Section 498-A IPC which later on are compromised and are brought to this Court for quashing, needs to be curbed. It was observed that though in ordinarily cases Section 376 IPC should not be quashed and should be taken as a crime against society at large, however, in the peculiar circumstances of this matrimonial dispute case where the complainant states that her future depends on quashing of the FIR and states that rape was not committed upon her, it will be in the interest of justice that if the FIR in its entirety is quashed.

[8] Though the offences under Sections 376 and 313 IPC were added during investigation but the real dispute between the parties was matrimonial dispute and now the parties have settled the said dispute by way of a mutual compromise. They have decided to finish the litigation and live together peacefully. The complainant does not want any action against the accused. In case, if proceedings in the present FIR are continued, it is going to affect the future life of petitioner No. 2 and respondent No. 2, as such, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

[9] Consequently, this petition is allowed and FIR No. 67, dated 13.03.2023, registered at Police Station Munak, District Karnal, under Sections 323, 354-A, 354-C, 498-A and 506 of the IPC read with Section 34 thereof (Sections 313 and 376 IPC were added later on and thereafter, Section 313 IPC was deleted), and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Pending miscellaneous application (s), if any, shall also stand disposed of.

December 15, 2023

nitin

(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking

Whether reportable

Yes

No