

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**260****CRM-M No.53038 of 2021****Date of Decision : 20.09.2023**

Rajesh Kumar and Others

....Petitioners

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Kang, Advocate for
Ms. Kanika Ahuja, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG Haryana for respondent No.1.

Mr. Prashant Kumar Kapila, 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.958 dated 07.11.2016 registered under Sections 323, 406 and 498-A of Indian Penal Code, 1860 at Police Station City Thanesar, District Kurukshetra, and all subsequent proceedings arising out of the said FIR, on the basis of compromise/affidavit dated 03.12.2021 (Annexure P-7).

2. On 04.08.2022 the following order was passed :

“Instant petition has been filed under Section 482 Cr. P.C seeking quashing of FIR No.958 dated 07.11.2016 registered under Sections 498-4, 406, 323 of Indian Penal Code, 1860 at Police Station City Thanesar, District Kurukshetra (Annexure P-1) and all consequential proceedings arising therefrom, on the

basis of affidavit dated 03.12.2021 (Annexure P-7) executed by the complainant-respondent No.2.

Mr. Sanjay K. Saini, Advocate for Mr. Jasvinder Singh Saini, Advocate has put in appearance on behalf of respondent No.2 and has filed 'Vakalatnama', which is taken on record.

Service is complete.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioners No.2 and 3 are the parents-in-law of the complainant-respondent No.2. The marriage of petitioner No.1 was solemnized with the complainant-respondent No.2 on 18.10.2012 at Kurukshetra and a son was born out of the wedlock, but due to temperamental differences, they could not pull along and have been living separately. He submits that FIR is an outcome of a matrimonial dispute, which has been settled by virtue of compromise as is reflected from the affidavit (Annexure P-7) of complainant-respondent No.2, entire permanent alimony of Rs. 7.00 lacs has been paid and the marriage has been dissolved, vide judgment and decree dated 29.04.2022.

Upon instructions from ASI Dinesh Kumar, State counsel submits that five persons have been named as accused in the FIR, but challan has been presented and charge has been framed against the three accused-

petitioners and no prosecution witness has been examined.

Counsel representing the complainant-respondent No.2 has admitted the factum of compromise as well as statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Trial Court/Area Magistrate on 13.10.2022 or on any day thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Area Magistrate shall submit a report 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/Area Magistrate be awaited for 06.12.2022.

Judgment and decree of divorce, be placed on record before the next date. ”

3. Pursuant to the order dated 04.08.2022, a report dated 17.11.2022 of the Chief Judicial Magistrate, Kurukshetra 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. 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 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.

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.958 dated 07.11.2016 registered under Sections 323, 406 and 498-A of Indian Penal Code, 1860 at Police Station City Thanesar, District Kurukshetra is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise/affidavit dated 03.12.2021 (Annexure P-7).

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

(ALKA SARIN)
JUDGE

20.09.2023
jk

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