

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

322

CRM-M-48425-2023 (O&M)

Date of Decision : 14.12.2023

Tarun Arora

.....Petitioner

Versus

State of Haryana and Another

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Chander Shekhar, Advocate and
Mr. Manmohan Saroop, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG Haryana for respondent No.1.

Mr. Arnav Kumar, 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.0326 dated 05.08.2020 registered under Sections 323, 354-A, 377, 406, 498-A, 506 of the Indian Penal Code, 1860 (Section 354-A, 377 and 506 have been deleted now) at Police Station Ambala Cantt, District Ambala, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 05.05.2023 (Annexure P-2).

2. On 25.09.2023 the following order was passed :

“This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0326 dated 05.08.2020 under Sections 323/354-A/377/406/498-A/506 IPC (Sections 354-A/377/506 have been deleted now)

registered at Police Station Ambala Cantt, District Ambala and all consequential proceedings arising therefrom on the basis of compromise dated 05.05.2023 (Annexure P-2).

Notice of motion.

On asking of the Court, Ms. Mayuri Lakhanpal Kalia, DAG, Haryana accepts notice on behalf of respondent No.1-State and Mr. Arnav Kumar, Advocate puts in appearance and accepts notice on behalf of respondent No.2 and files his memorandum of appearance which is taken on record.

Registry is directed to tag the same at an appropriate place in the file.

In view of the compromise/settlement arrived at between the parties, let the parties appear before the trial Court/Area Magistrate on 10.10.2023 for getting their statements recorded with regard to the settlement.

Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial;*
- (iii) status/stage of the trial/case;*

(iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;

(v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 14.12.2023.

Learned counsel for respondent No.2 is directed to file power of attorney on the next date of hearing.”

3. Pursuant to the order dated 25.09.2023, a report dated 20.10.2023 of the Additional Chief Judicial Magistrate, Ambala 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.

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-dominantly 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.

9. Resultantly, FIR No.0326 dated 05.08.2020 registered under Sections 323, 354-A, 377, 406, 498-A, 506 of the Indian Penal Code, 1860 (Section 354-A, 377 and 506 have been deleted now) at Police Station Ambala Cantt, District Ambala is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 05.05.2023 (Annexure P-2).

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

14.12.2023
Deepak patwal

(ALKA SARIN)
JUDGE

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