

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.54863 of 2022

Date of Decision : 19.07.2023

Rishu Kumar

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Randeep Singh, Advocate for
Mr. Vipin Mahajan, Advocate for the petitioner.

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

Mr. Amit Gupta, Advocate for
Mr. Rhythm Sharma, 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.16 dated 21.01.2020 registered under Section 498-A of the Indian Penal Code, 1860 at Police Station City Gurdaspur, District Gurdaspur and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 09.11.2022 (Annexure P-2).

2. On 08.12.2022 the following order was passed :

“Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.16 dated 21.01.2020, registered for offence under Section 498-A of the Indian Penal Code, 1860, at Police Station City Gurdaspur, Punjab,

Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 09.11.2022, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that FIR, Annexure P-1, which is an outcome of a matrimonial dispute, has been settled by virtue of compromise, Annexure P-2 and petition seeking divorce by mutual consent, Annexure P-3, has been instituted.

Notice of motion.

On asking of the Court, Mr. P.S. Grewal, DAG, Punjab accepts notice of behalf of State-respondent No.1. Upon instructions received from ASI, Ajay Rajan, State counsel submits that final report has been presented, however, charge has not been framed.

Mr. Rhythm Sharma, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2. He has filed Power of Attorney, which is taken on record. He has admitted the factum of compromise and submits that complainant-respondent No.2 has received part payment of permanent alimony.

The parties and the Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 06.02.2023 or on any day thereafter as fixed by the trial Court, for getting their statements recorded

with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing 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 the Area Magistrate/Trial Court be awaited for 19.07.2023.

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

3. Pursuant to the order dated 08.12.2022, a report dated 05.05.2023 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 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 compromised the matter and are now residing together.

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 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.16 dated 21.01.2020 registered under Section 498-A of the Indian Penal Code, 1860 at Police Station City Gurdaspur, District Gurdaspur is quashed, including all subsequent

proceedings arising out of the said FIR, on the basis of compromise dated 09.11.2022 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

19.07.2023
jk

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