

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**242****CRM-M No.59549 of 2022
Date of Decision : 07.07.2023**

Mohit Issar

....Petitioner

VERSUS

State of Haryana and Another

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satish Bansal, Advocate for
Mr. Amitabh Tewari, Advocate for the petitioner.

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

Mr. Shivam 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.06 dated 24.01.2022 registered under Sections 323, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Women Kaithal, District Kaithal and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 17.10.2022 (Annexure P-3).

2. On 27.01.2023 the following order was passed :

“Notice of motion.

Mr. Viney Phogat, DAG, Haryana and Mr. Shivam Sharma, Advocate, accept notice on behalf of respondent No.1 and respondent No.2.

Learned counsel for the petitioner undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.06 dated 24.01.2022 registered under Sections 323, 406, 498-A and 506 IPC at Women Police Station Kaithal, District Kaithal on the strength of a written compromise dated 17.10.2022 (Annexure P-3) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 06.02.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 09.05.2023.”

3. Pursuant to order dated 27.01.2023, report dated 24.04.2023 of the Judicial Magistrate, Ist Class, Kaithal 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 voluntarily entered into a compromise without any undue influence, threat or coercion. Separate statements of the parties have also been recorded. The complainant/respondent No.2 in her statement has stated that she has compromised the matter without any undue influence or coercion and that she has no objection if the present FIR is quashed. Statements of the parties have also been appended with the report.

4. Learned counsel appearing on behalf of complainant/respondent No.2 has stated that the petition under Section 13-B of the Hindu Marriage Act, 1955 has also been decreed and the entire amount has since been received by the complainant/respondent No.2.

5. 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.”

6. 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.

7. In view of the above and keeping in view the report by the Judicial Magistrate, Ist Class, Kaithal 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.

8. Resultantly, FIR No.06 dated 24.01.2022 registered under Sections 323, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Women Kaithal, District Kaithal is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 17.10.2022 (Annexure P-3).

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

(ALKA SARIN)
JUDGE

07.07.2023
jk

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