

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**276****CRM-M No.60106 of 2022****Date of Decision : 03.11.2023**

Tarbinder Singh

....Petitioner

VERSUS

State of UT Chandigarh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. H.S. Rakhra, Advocate for the petitioner.

Mr. Anil Kumar Lamdharia, APP UT Chandigarh.

Mr. Ishmeet Singh, 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.39 dated 29.05.2020 registered under Sections 406 and 498-A of the Indian Penal Code, 1860 at Women Police Station, Chandigarh, and all subsequent proceedings arising out of the said FIR, on the basis of judgment and decree of divorce dated 05.04.2022 passed under Section 13-B of the Hindu Marriage Act, 1955 (Annexure P-2).

2. On 22.12.2022 the following order was passed :

“The petitioner has filed petition under Section 482 Cr.P.C. for quashing of FIR No.39 dated 29.05.2020 under Sections 406, 498-A IPC registered at Women Police Station, Chandigarh and all the subsequent proceedings arising there from, qua the

petitioner, in light of the compromise effected between the parties.

Notice of motion.

On the asking of this Court, Ms. Roopse Sharma, Advocate for Mr. Anil Kumar Lamdharia, APP, UT, Chandigarh accepts notice on behalf of the State.

Learned counsel for respondent No.2 filed Power of Attorney which is taken on record.

Let the statement of the parties concerned be recorded with regard to the aforesaid compromise on 16.02.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1. The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offender or any such proceedings have been initiated or pending against them.

2. Whether the compromise entered between the parties is genuine voluntarily without any coercion or undue influence.

3. Statement of IO regarding involvement of petitioner in any other FIR.

To await the report, list again on 16.03.2023.”

3. Pursuant to the order dated 22.12.2022, a report dated 06.03.2023 of the Judicial Magistrate 1st Class, Chandigarh 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 stated that the parties have since compromised the matter and a decree of divorce dated 05.04.2022 under Section 13-B of the Hindu Marriage Act, 1955 has been granted.

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.39 dated 29.05.2020 registered under Sections 406 and 498-A of the Indian Penal Code, 1860 at Women Police Station, Chandigarh is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of judgment and decree of divorce dated 05.04.2022 passed under Section 13-B of the Hindu Marriage Act, 1955 (Annexure P-2).

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

03.11.2023
jk

(ALKA SARIN)
JUDGE

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