

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-770-2020 (O&M)
Date of Decision : 04.07.2023

Rajwinder Kaur and Others

....Petitioners

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Verma, Advocate for the petitioners

Mr. M.S.Tiwana, AAG Punjab for respondent No.1.

Mr. Shubhashish Kukreti, Advocate for respondent No.2.

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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.29 dated 19.04.2017 registered under Sections 406/498-A of the Indian Penal Code, 1860 at Police Station Behram, District SBS Nagar, Punjab as well as PO order dated 14.11.2017 alongwith all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 10.09.2019 (Annexure P-3).

2. Pursuant to the orders passed by this Court on 13.01.2020 and 09.12.2022, report dated 25.02.2020 of the Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar has since been received wherein it has been stated that the statements of the parties have been recorded and that the matter has been compromised between the parties voluntarily and

without any coercion or undue influence. Statement of Parminder Kaur - complainant/respondent No.2 - has also been recorded wherein she has stated that as per the compromise she has to receive an amount of Rs.8 lakhs. Statements of the parties have also been appended with the report.

3. Learned counsel appearing on behalf of respondent No.2/complainant - Parminder Kaur - states that the entire amount since stands received.

4. Accused i.e. petitioner No.2 to 5 have been declared proclaimed offenders. However, vide order dated 10.02.2020 petitioner No.2 was allowed to appear before the Court and on his appearance he was to be admitted to interim bail. Similar orders were passed qua petitioner Nos.3 to 5 on 09.12.2022. Petitioner Nos.2 to 5 thereafter appeared before the Trial Court as directed.

5. As per report dated 25.02.2020 and as per the statements, the matter stands compromised between the parties with their free will, without any coercion, undue influence or pressure. It has further been stated that the complainant/respondent No.2 has no objection to the quashing of the present FIR. It has also come on the record that petitioner No.4 - Gurmail Singh - and complainant/respondent No.2 - Parminder Kaur - have since obtained a mutual consent divorce under Section 13-B of the Hindu Marriage Act, 1955.

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 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.

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.29 dated 19.04.2017 registered under Sections 406/498-A of the Indian Penal Code, 1860 at Police Station Behram, District SBS Nagar, Punjab as well as PO order dated 14.11.2017 is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 10.09.2019 (Annexure P-3).

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

04.07.2023
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(ALKA SARIN)
JUDGE

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