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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3058-2024 (O&M)
Date of decision: 22.03.2024

RAJINDER KUMAR AND ANOTHER

...PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Subhash Kumar, Advocate
for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Ravi Dangi, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.72 dated 06.04.2018 under Sections 406 & 498-A of IPC, registered at Police Station, Adampur District Jalandhar Rural and all consequential proceedings arising therefrom on the basis of compromise dated 13.01.2024 (Annexure P-2), which is stated to have been effected between the parties.
2. On 31.01.2024, the following order was passed:

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.72 dated 06.04.2018 under Sections 406/498-A of the Indian Penal Code, 1860 registered at Police Station Adampur, District Jalandhar Rural (Annexure P-1), and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide compromise deed dated 13.01.2024 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise

deed dated 13.01.2024 has been appended with the present petition as Annexure P-2.

Notice of motion.

On the asking of the Court, Mr. Anup Singh, AAG, Punjab, accepts notice on behalf of respondent No.1 State and waives service. Mr. Ravi Dangi, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P-2 with the petition. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

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.”

In view of the above cited judgment of Hon'ble Apex Court, this Court considers that it would be unfair and contrary to the interest of justice to continue with the criminal proceeding despite compromise between the parties.

List on 07.03.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illqa Magistrate/Trial Court on 16.04.2024 or on any other date convenient to the Court, for recording of their statements. The CJM/Illqa Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along- with the statements of the parties, on the following points be sent to this Court before the next date of hearing :

- 1) Whether the settlement/compromise dated 13.01.2024 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties.”*

3. Pursuant to the aforesaid order, report dated 18.03.2024 from Judicial Magistrate Ist Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

i) It is respectfully submitted that as per the statements of complainant Kamaljit Kaur and accused persons namely Harpal Kaur and Rajinder Kumar, the compromise has been effected in FIR no.72 dated 06.04.2018 Under Section 406, 498-A of IPC, Police Station Adampur, Jalandhar. As per the statements of the parties, they have entered into compromise with their free consent and without any pressure, coercion, undue influence and inducement from any quarter.

ii) It is respectfully submitted that as per the statement of IO no other criminal case is pending against the complainant as well as accused Rajinder Kumar and Harpal Kaur in PS Adampur.

(iii) It is respectfully submitted that as per the statement of IO accused Rajinder Kumar and Harpal Kaur have not been declared as proclaimed persons or proclaimed offenders in any case registered at PS Adampur, Jalandhar nor any proclamation proceeding against accused Rajinder Kumar and Harpal Kaur in any criminal case registered in PS Adampur, Jalandhar.

The report is submitted accordingly alongwith original statements of parties.”

4. Learned counsel for respondent No.2 admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and the Hon'ble Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding in non-compoundable offences in the cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303, Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052 and Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021)***. The proposition of law that emerges from the aforesaid decisions rendered by the Hon'ble Apex Court and this Court is :

(a) *Power u/s 482 Cr.P.C. vested with this Court is much wider and is unaffected by Section 320 of the Code.*

(b) *However, wider the power greater the caution.*

- (c) *The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.*
- (d) *The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.*
- (e) *Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR under Section 307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.*
- (f) *Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.*
- (g) *While quashing FIR in non-compoundable offences even which are of private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.*

8. Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested u/s 482 Cr.P.C. to quash the FIR as :-

- (i) *Putting a quietus to the proceedings will bring peace and tranquility amongst parties & will accordingly further the cause of substantial justice.*
- (ii) *The offences alleged are primarily of private nature.*
- (iii) *The parties have compromised.*
- (iv) *As per the report received the compromise is said to be voluntary in its nature.*
- (v) *Complainant/victim is reported to have entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No.72 dated 06.04.2018 under Sections 406 & 498-A of IPC, registered at Police Station, Adampur District Jalandhar Rural and all consequential proceedings arising therefrom on the basis of compromise dated 13.01.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 22, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No