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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-4658-2022 (O&M)
Date of Decision: 16.02.2024**

Guljar Singh and another**.. Petitioners****Vs.****State of Haryana and another****..Respondents****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Alisha Soni, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Parveen K. Rohila, Advocate
for respondent No2.

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SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0193 dated 06.09.2020 registered under Sections 498-A, 34, 354, 406 and 506 of Indian Penal Code, 1860 at Police Station Siwan, District Kaithal and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 24.11.2021 (Annexure P-2), which is stated to have been effected between the parties.

2 On 04.02.2022, the following order was passed:

Heard through video conferencing.

“Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.0193 dated 06.09.2020 registered under Sections 498-A, 34, 354, 506 of Indian Penal Code, 1860 at Police Station Siwan, District Kaithal (Annexure P-1) and all subsequent proceedings arising therefrom, on basis of panchayati compromise dated 24.11.2021 (Annexure P-2).

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the mother-in-law of the complainant/respondent No.2. She submits that marriage between petitioner No.1 and complainant-

respondent No.2 was solemnized on 03.01.2020 and there is no child out of the wedlock. She submits that the parties could not pull along and due to temperamental differences, FIR (Annexure P-1) has been lodged by the complainant-respondent No.2 and the dispute between the parties has now been resolved by a panchayati compromise (Annexure P-2). In terms of the compromise, out of the permanent alimony of Rs.17.50 lacs, half the amount has been paid at the time of recording of the first motion in a petition for divorce by mutual consent filed under Section 13-B of Hindu Marriage Act, 1955 and the remaining amount is to be paid at the time of recording of second motion on 24.03.2022. By referring to para 17 of the petition, counsel submits that the petitioners have not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Ms.Deepshikha Chauhan, Assistant Advocate General, Haryana accepts notice on behalf of respondent No.1-State. As per instructions received by her from SI Birmati, she submits that challan has been presented, charge has been framed and evidence of all the prosecution witnesses, has been recorded.

Mr. Vikram Singh Multani, Advocate appears on behalf of the complainant-respondent No.2 and has filed his 'Vakalatnama', which is taken on record. He has admitted the factum of compromise as well as submission made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Trial Court/Illaq Magistrate on 24.03.2022 or on any date thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Illaq Magistrate shall submit the report 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 Trial Court/Illaq Magistrate be awaited for 26.04.2022."

3. Payment of Rs.5,000/- as costs in terms of order dated 31.10.2023 has been made. A receipt in this regard has been furnished by learned counsel for the petitioners and the same is taken on record.

4. Pursuant to the aforesaid order, report dated 12.04.2022 from Id. JMIC, Guhla, District Kaithal has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“Investigating officer of this case Inspector Birmati, No.548 Police Line, Kaithal., also appeared before this Court and suffered a statement that FIR No.193 dated 06.09.2020 was registered against Gurdeep Kaur, Guljar Singh, J.P., Surender Singh, Meena and Harjinder Kaur, She further stated that during the investigation, J.P. Surender, Meena, Harjinder Kaur were found innocent and only Gurdeep Kaur and Guljar Singh were found as accused in this case. She further stated that after completing the investigation, report under Section 173 Cr.P.C., against Gurdeep Kaur was prepared and submitted before the Area Magistrate, Guhla on 16.10.2020. She further stated that accused Gulzar Singh could not be arrested in this case after many efforts made by the police. She further stated that no other criminal case is pending against the accused and no accused is declared P.O. in this case.

Further, the present case is pending at the stage of defence evidence, if any and arguments (Complainant has turned hostile).

In view of the statement of the parties, this court is satisfied that parties have voluntarily entered into the compromise which is in the interest of parties and would bring the harmony and peace between the parties. The said compromise/ settlement is genuine and is not result of any pressure or coercion in any manner.”

5. 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.

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

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

8. This Court and 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 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 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.

9. 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.*

10. Consequently, the petition is allowed. FIR No.0193 dated 06.09.2020 registered under Sections 498-A, 34, 354, 406 and 506 of Indian Penal Code, 1860 at Police Station Siwan, District Kaithal and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 24.11.2021 (Annexure P-2), are, hereby, quashed qua the petitioners.

16.02.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No