



1

CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)

116

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)
Date of Decision: 01.08.2024

SUNIL AND OTHERS

.. Applicant/Petitioners

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.S. Jammu, Advocate and
Mr. R.K. Poonia, Advocate
for applicant-petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Mukul Ahuja, Advocate for
Mr. Karan Bansal, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

CRM-30151-2024

1. Instant application has been filed for restoration of CRM-M-4772-2024 by recalling the order dated 05.07.2024.
2. Notice of the application.
3. On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana, appears and accepts notice on behalf of respondent No.1-State. Mr. Mukul Ahuja, Advocate for Mr. Karan Bansal, accepts notice on behalf of respondent No.2.
4. Having heard the learned counsel for the parties and upon perusal of the record, this Court deems it appropriate to recall the order



**CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)**

dated 05.07.2024 & restore the main case i.e. CRM-M-4772-2024 to its original status and number.

5. Ordered accordingly.
6. List the main case today itself i.e. 01.08.2024.
7. By way of present petition, the petitioners are seeking quashing of FIR No.0075 dated 29.08.2016 under Sections 323, 34, 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Women, District Sonipat and all consequential proceedings arising therefrom on the basis of compromise/affidavit 14.12.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 30.01.2024, 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.0075 dated 29.08.2016 under Sections 323, 34, 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Women, District Sonipat and all other consequential proceedings arising therefrom on the ground that the parties have since compromised the matter vide compromise deed dated 14.12.2023 (Annexure P-2).

*Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise deed dated 14.12.2023 has been appended with the present petition as Annexure P-2. Learned counsel would further contend that petitioner No.1 and respondent No.2 have filed a petition under Section 13-B of the Hindu Marriage Act, 1955 for decree of divorce by way of mutual consent, wherein statements of first motion have already been recorded. Learned counsel for the petitioners has relied upon the judgment by the Larger Bench's judgment of this Court in "**Kulwinder Singh & Ors. Vs. State of Punjab & Anr.**" [2007 (3) RCR (Criminal) 1052].*

Notice of motion.

On the asking of the Court, Mr. Surinder Kumar Dagar, DAG Haryana, accepts notice and waives service on behalf of respondent No.1-State. Mr. Karan Bansal, 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



**CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)**

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; (1) 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 FLR 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 predominatingly 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



**CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)**

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 05.07.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illqa Magistrate/Trial Court on 14.03.2024 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 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 14.12.2023 (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 22.03.2024 from ld. JMIC, Sonipat has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

6. So, in view of the aforesaid facts, I am of the considered view that the compromise effected between the parties appears to be without any threat, undue influence, fraud, misrepresentation or coercion from either of the sides and is a genuine compromise, arrived at voluntarily and out of free will of the parties.

7. The details regarding the other directions in order dated 30.01.2024 are enunciated below:-

- (i) Whether any other criminal cases are pending**



**CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)**

against the parties?

Ans. As per the report/statement of IO, no criminal case is pending against the accused Sunil, Balwan, Rajpati and Sandeep but three cases are pending against the accused Rinku which are as follows:

(a) FIR No. 591 dated 16.12.2019 under Section 420 IPC, 61-1-14 Excise Act, PS Sadar, Sonapat.

(b) FIR No. 594 dated 19.12.2019 under Section 420 IPC, 61-1-14 Excise Act, PS Sadar, Sonapat.

(c) FIR No. 41 dated 06.01.2022 under Section 61 of Excise Act, PS Rai, Sonapat.

(ii) Whether any proclamation proceedings are pending against either of the parties?

Ans. As per the report/statement of IO, as per their record, no proclamation proceedings are pending against either of the parties in the present case.

8. The requisite report, along with the original statements of parties, copy of compromise deed/settlement Annexure C1, copy of the Aadhar Card of parties, Statement of Investigating Officer, Report of the Investigating Officer Annexure A is being submitted as directed, please.

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***



**CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)**

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.*

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.*



CRM-30151-2024 in/and
CRM-M-4772-2024 (O&M)

- (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.0075 dated 29.08.2016 under Sections 323, 34, 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Women, District Sonipat and all consequential proceedings arising therefrom on the basis of compromise/affidavit 14.12.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

01.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No