

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

246

CRM-M-5392-2024
Date of decision: 10.04.2024

MANISH KASHYAP ALIAS MANISH

....PETITIONER

V/s

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhinav Sood, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Sukhdev Singh, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.0256 dated 25.06.2023 under Sections 313, 376, 506, 509 of IPC (Sections 376(2) N, 323, 34 of IPC were added and Section 376 of IPC was deleted later on) registered at Police Station, Faridabad Central, District Faridabad and all consequential proceedings arising therefrom on the basis of compromise/settlement dated 09.01.2024 (Annexure P-2), which is stated to have been effected between the parties.

2. On 02.02.2024, 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.0256 dated 25.06.2023 under Sections 313, 376, 506, 509 IPC, 1860 and Sections 376(2)(n), 323, 34 IPC were deleted later on at the time of presentation of challan, registered at Police Station Faridabad Central, District Faridabad (Annexure P-1), and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide compromise/settlement agreement dated 09.01.2024 (Annexure P-2).

The brief facts of the case are that petitioner met with respondent No.2 in a marriage of cousin brother of respondent No.2 on 06.12.2020. After that petitioner expressed his love towards respondent No.2 and on the pretext of performing marriage, forcibly developed several times physical relations with her. Then in March 2023, respondent No.2 got pregnant and petitioner got done abortion of respondent No.2. After abortion, petitioner was continuously developing physical relations with her and also threatened her. Afterthat, the petitioner back out from his promise of performing marriage. Being aggrieved from the conduct of the petitioner, respondent No.2 led to registration of the aforesaid FIR.

Learned counsel for the petitioner would contend that the parties have since compromised the matter and performed marriage on 26.11.2023 and the compromise/settlement agreement dated 09.01.2024 has been appended with the present petition as Annexure P-2.

Notice of motion.

On the asking of the Court, Mr. Aditya Kumar Singla, AAG, Haryana, accepts notice on behalf of respondent No.1 State and waives service. Mr. Sukhdev Singh, 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 performed marriage on 26.11.2023 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 10.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 17.03.2024 or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq 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 09.01.2024 (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 21.03.2024 from Additional District and Sessions Judge, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

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."

It' is humbly submitted, to kindly, consider the following information, serial number-wise, as desired please:-

i. that a genuine compromise seems to have been arrived at, between the complainant/prosecutrix and the petitioner/accused, as they both claimed to have got married to each other on 26.11.2023 at Palampur, Delhi, in the presence of their family members. That a daughter was also born, to them, after their marriage (which the complainant had conceived, before their marriage) The complainant/prosecutrix has further claimed that she was living with the petitioner/accused, at her matrimonial house, at Ballabgarh, Faridabad, peacefully. Even the petitioner/accused claimed that he wanted to live peacefully with his legally wedded wife (i.e. the complainant/prosecutrix). Both of them claimed that they were not under any kind of undue-influence, coercion, or pressure of any kind, at the time of recording their statements:

ii. that no other criminal case was stated, to be pending against the parties, to the case;

iii. that no proclamation proceedings, were pending against either of the parties."

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

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise/settlement (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. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

- i) Ranjeet Kumar versus State of H.P. & Ors. in case CRM-M-648 of 2023 decided on 08.12.2023 by the High Court of Himachal Pradesh, Shimla.*
- ii) Arif Khan versus The State and another in case W.P. (CRL) 1064/2023 decided on 09.01.2024 by the High Court of Delhi at New Delhi.*
- iii) Sukhchain Singh and others versus State of Punjab and others 2021(4) R.C.R. (Criminal) 81.*
- iv) Ananda DV Vs. State and another 2021 SCC Online SC 3423.*

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) As per the report received the compromise is said to be voluntary in its nature.*
- (iv) Complainant/victim is reported to have entered into compromise on his own volition.*

10. Consequently, the petition is allowed. FIR No.0256 dated 25.06.2023 under Sections 313, 376, 506, 509 of IPC (Sections 376(2) N, 323, 34 of IPC were added and Section 376 of IPC was deleted later on) registered at Police Station, Faridabad Central, District Faridabad and all consequential proceedings arising therefrom on the basis of compromise/settlement dated 09.01.2024 (Annexure P-2), are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

April 10, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No