

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5610-2024 (O&M)
Date of decision: 19.03.2024

Rohit and another

... Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Parveen Kumar Rohilla, Advocate for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana for respondent No.1.

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

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (*for short 'Cr.P.C.'*) for quashing of FIR No.177 dated 19.10.2020, under Section 67A of the Information Technology Act, 2008 (as amended up to date) and Section 201 of the Indian Penal Code, 1860, registered at Police Station Cyber Crime, District Gurugram along with all consequential proceedings arising therefrom on the basis of compromise dated 24.01.2024, entered into between the parties i.e. petitioners as well as respondent No.2.

(2) Above FIR was registered on the basis of complaint made by respondent No.2-Pratibha with the allegations that petitioners uploaded pictures and videos of her daughter on Facebook.

(3) The Coordinate Bench, while issuing notice of motion on 02.02.2024, passed the following order:-

“This is a petition under Section 482 Cr.P.C. for quashing of case FIR No.177 dated 19.10.2020, under Sections 67A of IT Act and Section 201 IPC, registered at Police Station Cyber Crime, Gurugram and all other subsequent proceedings arising therefrom, on the basis of settlement dated 24.01.2024 (Annexure P2).

Notice of motion.

On the asking of the Court, Mr. BS Virk, Sr.DAG Haryana accepts notice on behalf of respondent No.1.

Mr. Wazir Singh, Advocate has put in appearance and has filed power of attorney on behalf of respondent No.2, which is taken on record. He admits the factum of compromise entered into between the parties.

List on 19.03.2024.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court, for recording of their statements within 2 weeks with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is declared as proclaimed offender;*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- (iv) Whether the accused persons are involved in any other FIR or not.”*

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate First Class, Gurugram and submitted a report dated 21.02.2024. The operative part of the same reads as under:-

“(1) The FIR was against unknown person.

(ii) Accused has not been declared proclaimed offender.

(ii) The compromise is appears to be genuine voluntary without any caution for undue influence.

(iv) The accused is not involved in any other FIR as per version of IO.”

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as respondent No.2 with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no grievance shown by either of the parties against each other.

(6) Learned State Counsel, on instructions from the police official concerned, also submitted that they have no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

(7) Learned Counsel for respondent No.2 also raises no objection.

(8) Hon’ble the Supreme Court in ‘**Gian Singh Versus State of Punjab**’, (2012) 10 SCC 303, has held as under:-

“61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the

affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

(9) In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not affect any public peace or tranquility. Thus, quashing of the FIR in question along with consequential proceedings on the basis of compromise would bring peace and harmony to secure the ends of justice.

(10) Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners. However, as a deterrence for the future, petitioners shall suffer costs of ₹ 50,000/- (₹ 25,000/- each). Costs be deposited with the Punjab and Haryana High Court Employees Welfare Association, Account No.37167209613, IFSC: SBIN0050306, State Bank of India, High Court Branch, Chandigarh.

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

19th March, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No