

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-7068-2024

Date of decision: 17.05.2024

DEVENDER @ DEVENDER KUMAR AND OTHERS

...PETITIONERS

V/s

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jamshed Ahmed, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Sushil K. Sharma, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.167 dated 04.09.2019 under Sections 323, 354-C, 377, 406, 498-A, 34 of IPC, registered at Police Station Women NIT Faridabad, District Faridabad and all consequential proceedings arising therefrom on the basis of Settlement Agreement dated 13.04.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 09.02.2024, the following order was passed:

“Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.167/2019 dated 04.09.2019 registered under Sections 323, 354-C. 377, 406, 498-A, 34 IPC, 1860 at Police Station Women NIT Faridabad, District Faridabad and all the consequential proceedings arising therefrom on the basis of Settlement Agreement dated 13.04.2023 (Annexure P-2) effected between the parties. Learned counsel for the petitioners submits that present FIR emanates from the matrimonial dispute between the parties. It is further submitted that petitioner No.1 is husband and petitioner No.2 is father-in-law, petitioner No.3 is mother-in-

law, petitioner No.4 is brother-in-law, petitioner No.5 is sister-in-law (Nanad), petitioner No.6 is sister-in-law(Nanad) and petitioner No.7 is sister-in-law(Nanad) of respondent No.2. It is stated that respondent No.2 was married to petitioner No.1 on 23.01.2019 and they have been residing separately within four months thereafter, since 12.05.2019. It is submitted that one child was born out of their wedlock, who is in care and custody of respondent No.2. Now in order to live peacefully, the parties have entered into Settlement Agreement dated 13.04.2023 (Annexure P-2), pursuant to which even divorce by mutual consent under Section 13-B under the Hindu Marriage Act has been granted to petitioner No.1 and respondent No.2 on 18.12.2023 (Annexure P-4). It is further submitted that all 7 petitioners are facing trial, however, none has been declared proclaimed offender and all 7 accused are a party to the Settlement Agreement dated 13.04.2023 (Annexure P-2).

Notice of motion.

On the asking of the Court, Mr. Ranvir Singh Arya, Addl. A.G. Haryana, accepts notice on behalf of the respondent-State; whereas Mr. Sushil K. Sharma, Advocate, who is present in Court, accepts notice on behalf of respondent No.2 and submits Vakalatnama, which is taken on record.

Learned State counsel as well as learned counsel for respondent No.2 have not disputed the aforesaid submissions made by learned counsel for the petitioners.

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the Settlement Agreement dated 13.04.2023 (Annexure P-2) on 28.02.2024 by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing i.e. 17.05.2024 containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.”

3. Pursuant to the aforesaid order, report dated 29.02.2024 from Judicial Magistrate Ist Class, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1.) In the present case, FIR has been filed qua seven accused persons namely Devender @ Devender Kumar, Raghuvir, Shyama Devi, Dharmender, Pushpa Devi, Prabha Chaudhary and Shashi.

2.) None of accused has been declared proclaimed person as per the statement of I.O.

3.) The compromise between the complainant and accused is genuine and voluntary as it is not the result of any undue influence or pressure in any manner and is out of their free will. The complainant and the accused have maintained uniformity in regard to the validity of compromise.

4.) Accused are not involved in any other FIR as per the statement of I.O.

5.) The complainant and all seven accused namely Devender @ Devender Kumar, Raghuvir, Shyama Devi, Dharmender, Pushpa Devi, Prabha Chaudhary and Shashi are party to the compromise.

6. Hence, the detailed report is submitted for your kind perusal and information 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 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.167 dated 04.09.2019 under Sections 323, 354-C, 377, 406, 498-A, 34 of IPC, registered at Police Station Women NIT Faridabad, District Faridabad and all consequential proceedings arising therefrom on the basis of Settlement Agreement dated 13.04.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

May 17, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No