

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

268

CRM-M-13257-2023
Date of decision: 12.03.2024

DUSHYANT POONIA AND ORS

....PETITIONERS

V/s

STATE OF PUNJAB AND ANR

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kuldip Singh, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Rajinder Kumar Kantwal, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.37 dated 01.05.2021 under Sections 498-A, 406, 506 of IPC and Section 4 of Dowry Prohibition Act, registered at Police Station, Sadar Abohar, District Fazilka and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 19.08.2021 (Annexure P-2), which is stated to have been effected between the parties.

2. On 17.03.2023, the following order was passed:

“The petitioners have filed the present petition seeking quashing of FIR No.37 dated 01.05.2021 under Sections 498-A, 406 and 506 of the Indian Penal Code, 1860 and Section 4 of Dowry Prohibition Act, 1961, registered at Police Station Sadar, Abohar, District Fazilka (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise dated 19.08.2021 (Annexure P-2).

Notice of motion.

On the asking of Court, Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of respondent No.1-State and Mr. Rajinder Kumar Kantwal, Advocate accepts notice and filed Vakalatnama on behalf of respondent No.2, which is taken on record and admit the factum of compromise effected between the parties.

Adjourned to 09.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 29.03.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 18.07.2023 from Judicial Magistrate Ist Class, Abohar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- i. It is submitted that in view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, voluntary and without any coercion of undue influence and the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties.*
- ii. It is further submitted that accused/petitioners mentioned in the petition there is no other accused in the FIR.*
- iii. It is further submitted that as per statement of Investigating Officer, none of the above named accused persons have been involved or declared proclaimed person/offender in any other criminal case.”*

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

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.37 dated 01.05.2021 under Sections 498-A, 406, 506 of IPC and Section 4 of Dowry Prohibition Act, registered at Police Station, Sadar Abohar, District Fazilka and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 19.08.2021 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

March 12, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No