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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13309-2023 (O&M)
Date of Decision: 15.02.2024

DHARMENDER AND OTHERS

.. Petitioners

Vs.

STATE OF UNION TERRITORY CHANDIGARH AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioners.

Mr. Anupam Bansal, Addl. P.P., U.T. Chandigarh.

Ms. Deepika Verma, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.19 dated 17.3.2018 under Section 498-A IPC registered at Women Police Station, Sector 17, Chandigarh and all consequential proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), which is stated to have been effected between the parties.
- 2 On 16.03.2023, the following order was passed:

“This is a petition for quashing of the FIR No.19 dated 17.3.2018 under Sections 498-A IPC registered at Women Police Station, Sector 17, Chandigarh (Annexure P-1) on the basis of compromise said to have been entered into between the parties (Annexure P-2).

Notice of motion.

Mr. Anupam Bansal, Addl. PP, UT, Chandigarh, appears and accepts notice on behalf of respondent No.1-State and Ms. Deepika Verma, Advocate, has put in appearance on behalf of respondent No.2 by filing memo of appearance.

Let the parties appear before the trial Court/Duty Magistrate on 28.3.2023 or any other date convenient to the Court, for recording their statements with regard to compromise.

The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties:

The trial Court/Duty Magistrate shall also furnish the following information:

1. Whether there is any other accused, apart from the petitioners arrayed in this petition.

2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.

3. Whether the parties are involved in any other criminal case.

4. Whether any of the parties has been declared a proclaimed offender.

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e., 24.5.2023.”

3. Pursuant to the aforesaid order, report dated 28.03.2023 from Id.

JMIC, Chandigarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Further the accused persons namely Dharmender, Maya and Roshan suffered their joint statement that they have compromised the matter with the complainant and admitted the compromise Ex.C1. The complainant and the accused persons were identified by their respective counsels. Statement of 1.0. retired Inspector Ram Kumar was also recorded who had stated that none of the accused has been declared proclaimed offender by any court.

It appears from the statement of complainant and accused persons that the compromise has been effected with their consent and without any pressure, threat or coercion. They have compromised the matter voluntarily and without any coercion or undue influence. Copy of statements suffered by the parties are attached herewith for kind perusal of your goodself.”

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 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 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.
- (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.19 dated 17.3.2018 under Sections 498-A IPC registered at Women Police Station, Sector 17, Chandigarh and all consequential proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), are, hereby, quashed qua the petitioners.

15.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No