

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

257

CRM-M-17838-2023

Date of decision: 16.02.2024

Pratham Kalia

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.R. Rana-I, Advocate for the petitioner.
Mr. Yuvraj Singh, AAG Punjab.
Mr. Vaibhav S. Tara, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0347 dated 23.11.2022 under Sections 498-A and 406 of IPC, registered at Police Station, City Hoshiarpur, District Hoshiarpur, and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 24.03.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 25.07.2023, 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.0347 dated 23.11.2022 under Sections 498-A, 406 of the Indian Penal Code, 1860 Hoshiarpur registered at Police Station City Hoshiarpur, District Hoshiarpur, and all other Hoshiarpur consequential proceedings arising there-from on the ground that the parties have since compromised the matter.

Learned counsel for the petitioners would contend that the parties have resolved all their disputes and their first motion statements under Section 13-B of the Hindu Marriage, 1955 Act have been recorded on 24.03.2023 wherein terms of the compromise have also been referred to. Learned counsel for the petitioners has relied upon the judgment by the

Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh, AAG Punjab accepts notice on behalf of respondent No.1-State and Mr. Vaibhav Singh Tara, Advocate has filed his memorandum of appearance on behalf of respondent No.2-complainant. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 states that the compromise has voluntarily been entered into by respondent No.2 and that the statements of first motion also stand recorded on 24.03.2023. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 17.11.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 21.08.2023, 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 as recorded in the order dated 24.03.2023 (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 14.09.2023 from Chief Judicial Magistrate, Hoshiarpur has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that in compliance of order of the Hon'ble Punjab and Haryana High Court dated 25.07.2023, passed in CRM-27402-2023

in CRM-M-17838-2023 and order dated 21.08.2023 passed in CRM No.34212 of 2023 in/and (O&M) CRM-M No.17838 of 2023, on 04.09.2023 complainant Akshita Kalia @ Akshita Sharma appeared in the court and stated that the FIR No.347, dated 23.11.2022, U/s 498-A, 406 IPC, was registered at PS City, Hoshiarpur, on her statement against the accused Pratham Kalia. She further stated that now with the intervention of respectables, the compromise has been effected between her and the accused. The compromise has been effected voluntarily without any pressure, coercion or undue influence and the same is not the result of any fraud or misrepresentation and is the result of free will of the parties. There is only one accused in the present FIR. Challan is yet to be presented in this case. No accused is declared as Proclaimed Offender in this case. No other criminal case is pending against the accused. The FIR may kindly be quashed. Thereafter, the accused namely Pratham Kalia also suffered statement on 04.09.2023, in which, he stated the same facts as stated by the complainant in her statement.

Investigating Officer HC Deepak Kumar, No.524/HPR, was called for his statement and he suffered statement on 04.09.2023 that the FIR No.347, dated 23.11.2022, U/s 498-A, 406 IPC, P.S. City, Hoshiarpur, was registered on the statement of complaint Akshita Kalia against the accused namely Pratham Kalia. As per the parties a compromise has been effected between them. There is only one complainant and one accused in the present FIR. No other FIR is pending against the accused. Accused Pratham Kalia and complainant Akshita Kalia @ Akshita Sharma are not declared as proclaimed offender in this case. Regarding the compromise between the parties, he does not have any knowledge.

From the statements of the complainant, accused and Investigating Officer of the case, the report of the undersigned is as under:-

- 1. The settlement/compromise as recorded in the order dated 24.03.2023 appears to have been freely entered into between the parties without any undue influence, coercion or pressure of any kind.***
- 2. No any other criminal cases are pending against both the parties.***
- 3. None of the parties has been declared a proclaimed offender. It has been verified by the Investigating Officer.***

Statements of the parties as well as of Investigating Officer are being sent herewith, as desired by the Hon'ble High Court. Submitted 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 petitioner 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.0347 dated 23.11.2022 under Sections 498-A and 406 of IPC, registered at Police Station, City Hoshiarpur, District Hoshiarpur and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 24.03.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 16, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No