

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-31924 of 2022

DATE OF DECISION :- 09.02.2024

Gagan Sehgal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Arshdeep Kaur, Advocate for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

Mr. Namit Gautam, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 0056 dated 28.04.2016 under Sections 406,498-A of IPC, registered at Police Station Women, District Police Commissionerate Ludhiana and all consequential proceedings arising therefrom on the basis of Award dated 12.03.2022 (Annexure P-3), which is stated to have been effected between the parties.

2. On 10.11.2022, the following order was passed:

“CRM-42655-2022

This is an application for placing on record the copy of the judgment dated 18.04.2018 passed by the Court of learned Addl.

District Judge, Ludhiana as Annexure P-4.

The same is allowed to be taken on record, subject to all just exceptions.

Registry is directed to tag the same at the appropriate place.

Disposed of.

Main case

The petitioner is seeking to quash FIR No. 56 dated 28.04.2016, under Sections 406, 498-A IPC registered at Police Station Women, District Police Commissionerate Ludhiana on the basis of compromise.

Learned counsel for the petitioner contends that although the complaint was submitted against the petitioner and his other family members but the FIR has been registered only against the petitioner. The marriage of the petitioner was solemnized with respondent No.2 on 08.02.2015 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of Award, Annexure P-3 passed by the Lok Adalat. The marriage of petitioner and respondent No.2 has been dissolved in terms of the judgment and decree dated 18.04.2018 under Section 13 of the Hindu Marriage Act passed by the Court of learned Addl. District Judge, Ludhiana. In terms of the compromise, the petitioner has agreed to pay a sum of Rs. 7,50,000/- to respondent No.2 on account of permanent alimony and a sum of Rs. 4,50,000/- has already been paid. The balance amount along with interest which is in the shape of FDR deposited in the Court of learned Judicial Magistrate Ist Class, Ludhiana may be released to respondent no.2 in terms of the Award, Annexure P-3. No other case is pending between the parties.

Notice of motion.

Ms. Ruchika Sabherwal, DAG Punjab accepts notice on behalf of the State.

Mr. Namit Gautam, Advocate has caused representation on behalf of respondent No.2 and he has acknowledged the fact of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 15.12.2022 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. *Number of persons arraigned as accused in FIR.*
2. *Whether any accused is 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 case or not.*
5. *The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

To await the report, adjourned to 15.02.2023.”

3. Pursuant to the aforesaid order, report dated 22.12.2022 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that as per the statement of Investigating Officer and report of the concerned Ahlmad, only petitioner namely Gagan Sehgal is arraigned as accused in the present FIR. The accused is not declared as proclaimed offender and he is not involved in any other case. There is only one victim/complainant namely Pooja.

So, from the statements of the parties, it appears to the Court that the parties have been compromised the matter out of their free Will, voluntarily, without any sort of pressure, coercion and fear.”

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 is quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the Award dated 12.03.2022 (Annexure P-3).

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 proceedings 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 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. 0056 dated 28.04.2016 under Sections 406,498-A of IPC, registered at Police Station Women, District Police Commissionerate Ludhiana and all consequential proceedings arising therefrom on the basis of Award dated 12.03.2022 (Annexure P-3), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

09.02.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No