

301

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30505-2023 (O&M)

Date of Decision: 30.01.2024

MAHESH BACHHAV AND OTHERS

.. Petitioners

Vs.

STATE OF U.T. AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rikash Goel, Advocate for the petitioners.

Mr. Sumit Jain, Addl. P.P., U.T. Chandigarh
for respondent No.1.

Mr. Jagtar Kureel, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.71 dated 12.10.2021 under Sections 406 and 498-A of the Indian Penal Code, 1860 registered at Women Police Station, Sector-17, U.T. Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 03.02.2023 (Ex.CA), which is stated to have been effected between the parties.
- 2 On 03.07.2023, 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.71 dated 12.10.2021 under Sections 406 and 498-A of the Indian Penal Code, 1860 registered at Women Police Station, Sector-17, U.T. Chandigarh and all other consequential proceedings arising there-from on the ground that the parties have since compromised the matter and have also filed a petition (Annexure P-2) under Section 13-B of Hindu Marriage Act, 1955 before the Court below for dissolution of marriage by mutual consent.

Notice of motion.

On the asking of the Court, Mr. Sumit Jain, Addl. PP U.T. Chandigarh accepts notice on behalf of respondent No.1-State. Mr. Jagtar Kureel, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel for the petitioners would contend that the dispute between the parties has since been settled and they have filed a petition under Section 13-B of Hindu Marriage Act, 1955 before the Court below for dissolution of marriage by mutual consent, a copy of which has been appended with the present petition as Annexure P-2. 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].

Learned counsel appearing for respondent No.2 has stated that the parties have voluntarily entered into a compromise and that they have already filed a petition (Annexure P-2) under Section 13-B of Hindu Marriage Act, 1955 before the Court below for dissolution of marriage by mutual consent. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 27.09.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 07.08.2023, 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 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 03.01.2024 from ld.

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

"Statement of IO ASI Krishan Kumar was also recorded on 07.08.2023 wherein he stated that as per record only three accused Mahesh Bachhav, Ashok Bachhav and Anita Bachhav have been arrayed in present FIR. There is only one complainant/victim Anshu Makkar in the present case FIR. As

per record there is no pending or previous P.O. proceeding against abovementioned accused. Accused persons are on anticipatory bail. As per record no other trial/proceeding is pending against aforesaid accused in women Police Station, Sector-17, Chandigarh. Report regarding recording of statement of complainant, accused Anshu Makkar, Mahesh Bachhav and 10 ASI Krishan were already sent vide letter no. 365 dated 22.09.2023.

5 Since the matter has been compromised by the complainant with the accused persons without any pressure, coercion or threat from any side, who has no objection with regard to quashing of FIR on the basis of compromise, therefore, compromise is complete, genuine, valid and good in the eyes of law. Therefore, report is thus submitted for your goodself's perusal."

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 (Ex.CA).

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.71 dated 12.10.2021 under Sections 406 and 498-A of the Indian Penal Code, 1860

registered at Women Police Station, Sector-17, U.T. Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 03.02.2023 (Ex.CA), is, hereby, quashed qua the petitioners.

30.01.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No