

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

237

**CRM-M-33279 of 2023 (O&M)
DATE OF DECISION :- 01.03.2024**

Sukhwinder Singh @ Lucky

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Harish Kumar Bhatti, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Kapish Singla, Advocate for
Ms. Manjot Kaur, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 35 dated 17.04.2015 under Sections 498-A of IPC, registered at Police Station Women Cell, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise deed dated 12.07.2022 (Annexure P-2), which is stated to have been effected between the parties.

2. On 22.09.2023, 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.35 dated 17.04.2015 under Sections 498-A of the Indian Penal Code, 1860 registered at Police Station Women Cell, District Ludhiana, and all other consequential proceedings arising therefrom, on the ground that the parties have since compromised the matter vide compromise deed dated 12.07.2022 (Annexure P-2).

Learned counsel for the petitioner would contend that the parties have entered into a compromise on 12.07.2022 (Annexure P-2) and thereafter had also filed a petition for grant of decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955 and that a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 has also been granted on 27.02.2023. Learned counsel for the petitioner 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. Ms. Manjot Kaur, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 states that respondent No.2 would have no objection if the aforesaid FIR is quashed in view of the compromise arrived at between the parties.

List on 20.12.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 31.10.2023, 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 dated 12.07.2022 (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 16.12.2023 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:-

As per the statements of the parties as well as Investigating officer and from the perusal of report under Section 173 Cr.P.C., the report is as under:-

“1. From the statements of the complainant respondent No. 2 and petitioner/accused, the compromise between the parties appears to be genuine, voluntary and without any coercion or undue influence.

2. As per the statements of complainant/respondent No. 2 and accused/petitioner, there is no criminal case is pending against complainant, whereas one criminal case under Gambling Act is pending against accused Sukhwinder Singh @ Lucky. Further, as per the statement of IO, except the present, no other criminal proceedings between the parties is pending at P.S. Women Cell, Ludhiana.

3.As per the statement of IO, accused was declared PO, but he was re-arrested and is now facing trial.”

4. Learned counsel appearing 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 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 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. 35 dated 17.04.2015 under Sections 498-A of IPC, registered at Police Station Women Cell, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise deed dated 12.07.2022 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

01.03.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No