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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38425-2023 (O&M)
Date of Decision: 26.02.2024

Deepak Saluja and another
Vs.
State of Punjab and another

.. Petitioners
..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Sharma, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. P.S. Chahal, Advocate for
Mr. Munish Gulati, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.57 dated 20.08.2018 under Sections 406/498-A IPC registered at Police Station Women, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 24.05.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 21.09.2023, the following order was passed:
“1. The petitioners are seeking to quash the FIR No.57 dated 20.08.2018 under Sections 406/498-A IPC registered at Women Police Station, District Ludhiana on the basis of compromise.
2. Learned counsel for the petitioners contend that although, the allegations were levelled against the petitioners and 05 other relatives but they have been found to be innocent during the course of investigation and FIR has been registered only against the petitioners. The marriage of petitioner No.1 was solemnized with respondent No.2 on 07.05.2006 and a daughter and son have been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of Panchayati compromise, Annexure P-2. Petitioner No.1 and respondent No.2 have instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent wherein the statements of the parties at the stage of first motion have been recorded. Petitioner No.1 shall pay a sum of

Rs. 6,00,000/- on account of permanent alimony to respondent No.2. A sum of Rs.5,00,000/- has already been paid and the balance amount of Rs.1,00,000/- is to be paid at the time of recording the statements at the stage of second motion. Respondent No.2 has received all her articles of istridhan and nothing else is due payable to her by the petitioner(s). The custody of the minor children shall remain with respondent No.2. No other case is pending between the parties.

3. Mr. Munish Gulati, Advocate, has appeared on behalf of respondent No.2, placed on record power of attorney and acknowledged the fact of compromise.

4. The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 17.10.2023. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

5. The learned Illaqa Magistrate/trial Court 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.

6. To await the report, list again on 13.12.2023”

3. Pursuant to the aforesaid order, report dated 23.10.2023 from Id. JMIC, 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 ASI Balvir Singh, there are two accused namely Deepak Saluja and Darshana Rani arraigned in the present FIR. The accused are not declared as proclaimed offender and they are not involved in any other case. There is only one victim/complainant namely Shalini @ Shalu @ Disha in the present case.

So, from the statements of the parties, it appears to the Court that the parties have 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 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.57 dated 20.08.2018 under Sections 406/498-A IPC registered at Women Police Station, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 24.05.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

26.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No