

278

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39339-2023 (O&M)

Date of Decision: 04.03.2024

GURSHARANJIT SINGH AND ANR.

.. Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. I.S. Kooner, Advocate for the petitioners.

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

Ms. Shruti Sharma, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.18 dated 20.02.2021 registered under Section 498-A IPC, at Police Station Mehtiana, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 31.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 10.08.2023, the following order was passed:

“This petition is for quashing of FIR No.18 dated 20.02.2021 registered under Section 498-A IPC, at Police Station Mehtiana, District Hoshiarpur, along with all the subsequent proceedings arising therefrom, on the basis of compromise dated 31.07.2023 (Annexure P-2).

Learned counsel for the petitioners submits that it is matrimonial dispute between respondent No.2-wife and petitioner No.1- husband, petitioner No.2 is mother-in-law of respondent No.2, and now with the intervention of the respectable persons of the area, the matter has been compromised between the parties and a divorce petition under Section 13-B of the Hindu Marriage Act has been filed.

Notice of motion.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State.

At this stage, Ms. Shruti Sharma, Advocate, appears and files power of attorney on behalf of respondent No. 2, and does not dispute the factum of the compromise. The power of attorney is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 28.08.2023 or any other date convenient to the concerned Court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. If the compromise is genuine, voluntary and out of free will of the parties;

Report of the Illaqa Magistrate/trial Court be awaited for 04.10.2023.”

3. Pursuant to the aforesaid order, report dated 29.08.2023 from Id. JMIC, Hoshiarpur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

1.	Number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;	Two persons have been arrayed as accused in the present FIR namely Gursharanjit Singh & Ranjit Kaur and both of them have appeared and recorded their statements regarding compromise. None of the accused is absconding/PO in the case.
2.	The name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;	The name of complainant is Harjinder Kaur and there is none other injured/aggrieved persons in the present FIR. The complainant appeared and made her statement in support of the compromise.
3.	The stage of trial/proceedings;	Case is fixed for prosecution

		evidence.
4.	Whether the compromise is genuine, voluntary and without any coercion or undue influence;	Compromise is genuine, voluntary and without any coercion or undue influence

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.18 dated 20.02.2021 registered under Section 498-A IPC, at Police Station Mehtiana, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 31.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

10. Pending application(s), if any, shall also stand disposed off.

04.03.2024

(SUMEET GOEL)

Jasmine Kaur

JUDGE