

141

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-39344-2023 (O&M)

Date of Decision: 24.01.2024

GURWINDER SINGH

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.B.S. Randhawa, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Anoop Singh, Advocate for  
Mr. Aniket Chauhan, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0090 dated 17.08.2022 under Sections 498-A and 406 of IPC, registered at Police Station, Rangar Nangal, Police District Batala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 19.07.2023 (Annexure P-2), which is stated to have been effected between the parties.
- 2 On 21.11.2023, the following order was passed:

*“1. The petitioner is seeking to quash FIR No. 90 dated 17.08.2022 under Sections 498-A, 406 IPC registered at Police Station Rangar Nangal, Police District Batala on the basis of compromise.*

*2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with respondent No.2 on 26.06.2017 but no child has been born from the wedlock. Respondent No.2 was a divorcee having a daughter from the first marriage. The matrimonial dispute has been amicably settled between the parties in terms of compromise (Annexure P-1). The petitioner shall pay a sum of Rs.7,00,000/- to respondent No.2 on account of permanent alimony. The petitioner and respondent No.2 have instituted a petition under*

*Section 13-B of 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. A sum of Rs. 3.5 Lakhs has already been paid and the balance amount of Rs. 3.5 Lakhs shall be paid when the statements of the parties is recorded at the stage of 2<sup>nd</sup> motion. Respondent No.2 has received all her articles of Istridhan and nothing else is due payable to her from the petitioner. No other case is pending between the parties.*

*3. Notice of motion.*

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

*5. Mr. Aniket Chauhan, Advocate has put appearance on behalf of respondent No.2 and submits that power of attorney is already on record. He has acknowledged the fact of compromise.*

*6. Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 07.12.2023 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.*

*7. To await the report, adjourned to 08.01.2024.”*

3. Pursuant to the aforesaid order, report dated 25.12.2023 from Id. Civil Judge (Jr. Division)-cum-JMIC, Batala has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

***“Accordingly, the requisite report is being submitted as under:***

*1) As per FIR, only one accused, namely Gurwinder Singh is arraigned in the FIR.*

*2). As per the statements of Investigating Officers ASI Harpinder Singh and ASI Rashpal Singh, the accused had never been declared proclaimed offender.*

*3). From the statements, suffered by the parties, it appears that the compromise effected between the parties*

*is genuine, voluntary and without any coercion or undue influence.*

*4). As per the statements of the Investigating officer ASI Harpinder Singh and ASI Rashpal Singh, the accused Gurwinder Singh is not involved in any other case.*

*5). The statements of the Investigating officer ASI Harpinder Singh and ASI Rashpal Singh, were recorded. As per their statements, in the present FIR, there was only one complainant ie Sukhdeep Kaur and she was the sole victim.”*

4. Learned counsel for respondents 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 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.0090 dated 17.08.2022 under Sections 498-A and 406 of IPC, registered at Police Station, Rangar Nangal, Police District Batala and all consequent

proceedings arising therefrom on the basis of compromise/affidavit dated 19.07.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

24.01.2024

(SUMEET GOEL)  
JUDGE

Jasmine Kaur

|                           |     |    |
|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |