

2024:PHHC:020316

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

284

CRM-M-40019-2023
Date of decision: 13.02.2024

Munish Kumar

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Varun Sharma, Advocate, for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Anil Kumar Sharma, Advocate,
for complainant-respondent No.2.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.36 dated 04.04.2023 under Section 498-A of IPC, registered at Police Station, Women Cell, Police Commissionerate, District Jalandhar and all consequential 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 15.12.2023, the following order was passed:

“CRM-49255-2023

- 1. This is an application for placing on record the amended memo of parties.*
- 2. CRM application is disposed of and amended memo of parties is taken on record, subject to all just exceptions.*
- 3. Registry to tag the same at the appropriate place.*

Main case

4. *Petitioner is seeking to quash the FIR bearing No.36 dated 04.04.2023, under Section 498-A IPC, registered at Police Station Women Cell, Police Commissionerate Jalandhar on the basis of compromise as having been effected between the parties.*

5. *Learned counsel for the petitioners contend that though the allegations were levelled against the petitioner and other family members but the FIR has been registered only against the petitioner. The marriage of the petitioner was solemnized with respondent No.2 on 10.02.2014 and a daughter has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise dated 19.07.2023 (Annexure P-2). The marriage of the petitioner and respondent No.2 has been dissolved by a decree of divorce by mutual consent under Section 13-B of Hindu Marriage Act in terms of judgment and decree dated 29.11.2023 passed by the learned Family Court Jalandhar. Petitioner has paid a sum of Rs.3,50,000/- to respondent No.2 on account of permanent alimony. Respondent No.2 has received all her articles of Istri Dhan and nothing is due payable to her by the petitioner. The custody of minor daughter shall remain with respondent No.2. Respondent No.2 has withdrawn the petition under Section 12 of Protection of Women from Domestic Violence Act. No other case is pending between the parties.*

6. *Notice of motion.*

7. *Ms. Ruchika Sabherwal, DAG, Punjab. accepts notice on behalf of the respondent-State.*

8. *Mr. Anil Kumar Sharma, Advocate has put in appearance on behalf of respondent No.2 and filed power of attorney. He has acknowledged the fact of compromise.*

9. *The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 09.01.2024.. It is made clear that if for any reason, the statements are not*

recorded on that date, the same may be recorded on any date convenient to the Court concerned.

10. 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.

11. To await the report, list again on 13.02.2024.”

3. Pursuant to the aforesaid order, report dated 01.02.2024 from Judicial Magistrate, Ist Class, Jalandhar, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Most respectfully, this is reference to the subject cited above complainant Rajni aged about 30 years daughter of Pardeep Kumar resident of Kabir Vihar mandir, Basti Bawa Khel Jalandhar and accused Munish Kumar aged about 31 years son of Dev Kumar resident of House No.B-1/36, Balmiki Mohalla Bahadar pur Hoshiarpur. together came present in the Court for recording their statements in order to confirm genuineness of the compromise. They produced copy of the above said order passed by Honourable High Court passed in CRM-49255-2023 and CRM-M-40019 of 2023 in case titled as 'Munish Kumar Vs State of Punjab & Anr.' On joint request of the counsels for the parties, the time was fixed for recording the statements of the parties. On 24.01.2024 complainant and accused appeared in the Court in compliance of the above said order passed by Honourable High Court. The complainant has also suffered statement that She has compromised the matter with accused. She and accused party

will remain peacefully in the future as per compromise affected between them. She has compromised with the accused party, without any threat, inducement or any kind of pressure. Now there is no grudge against the accused party. She want to live peacefully in the society in future. She does not want to take any action against the accused in the present case. She has got no objection, if the present FIR against the above mentioned accused be quashed by the Hon'ble High Court of Punjab and Haryana at Chandigarh. The present compromise has been taken place with the free consent and without any pressure. There is no other person as accused involved in the occurrence given in the FIR. None of the accused have been declared P.O in this case. Similarly, accused has also suffered statement to the effect that he has compromised with the complainant.

ASI Rajesh Kumar No.1657/Jal posted at PS Women Cell, Jalandhar suffered statement that as per record the name of the complainant of the present case is Rajni and except her there is no other complainant in this FIR. The name of the accused person is Munish Kumar. Except him, there are no other person nominated by the police as accused. As per record, accused person is neither involved in any other case in Jalandhar nor declared proclaimed offender in any other criminal case in Jalandhar.

The parties were present with their counsel and got recorded their statements in respect to the compromise taken place between them. All the parties are duly identified by their counsels.

As per record the name of the complainant of the present case is Rajni and except her there is no other complainant in this FIR. The name of the accused person is Munish Kumar. Except him, there are no other person nominated by the police as accused. As per record, accused person is neither involved in any other case in Jalandhar nor declared proclaimed offender in any other criminal case in Jalandhar. At present, the case is pending for awaiting challan.

Both parties have compromised the matter. There is no grudge remain between parties. The Compromise is voluntarily, without

any pressure or coercion. This court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.

The compliance report along with statements of parties recorded by the undersigned is submitted herewith for onward transmission to the Hon'ble Punjab & Haryana High Court, Chandigarh."

4. Learned counsel for respondent No.2 admits the factum of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioner are quashed.

5. Similarly, learned State counsel has stated that he has 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. 36 dated 04.04.2023 under Section 498-A of IPC, registered at Police Station, Women Cell, Police Commissionerate, District Jalandhar and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 19.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 13, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No