

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

**CRM-M-40985-2023 (O&M)
Date of Decision: 24.01.2024**

DIWAKAR KUSHWAH @ DIWAKAR KUMAR KUSHWAH

.....PETITIONER

Vs.

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Munfaid Khan, Advocate, for the petitioner.

Ms. Mayuri Lakhanpal, D.A.G. Haryana.

Mr. Aazam Khan, Advocate, for
Mr. Khalid Taura, Advocate, for respondent No. 2.

HARPREET KAUR JEEWAN J. (ORAL)

[1] The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 17 dated 25.01.2021, registered at Police Station Women, District Faridabad, under Sections 323, 376, 406, 498-A and 506 of the IPC read with Section 34 thereof, on the basis of a compromise.

[2] It is contended on behalf of the petitioner that it was a matrimonial dispute. The FIR was registered at the instance of respondent No. 2-complainant (wife). Now the parties have amicably settled their dispute. In pursuance to the said settlement, a joint petition has been filed by the petitioner and respondent No. 2 under Section 13-B of the Hindu Marriage Act before the learned Family Court, New Delhi on 04.02.2023. It is further contended that respondent No. 2 at whose instance the present FIR was registered, does not want to take any action against the petitioner.

[3] A status report, dated 09.11.2023 by way of an affidavit of Sh. Monica, HPS, Assistant Commissioner of Police, Women Safety, Faridabad, has already been filed by learned State counsel. The same is taken on record.

[4] In the said report, it is clarified that out of six persons nominated in the FIR, the final report under Section 173 Cr.P.C. was presented only against the present petitioner who was arrested on 19.03.2021. The charges were framed on 01.01.2022 and at present only two witnesses out of 14 have been examined.

[5] As per Annexure R-1 attached with the status report, respondent No. 2 Shashi (the complainant) has appeared as PW-1 and in her cross-examination she has admitted that a compromise has been executed with the accused and they have filed a divorce petition with mutual consent in the Family Court, Delhi, and she has further testified that she does not want to take any action in this case. PW-2 Baikunt Verma has also stated nothing in her statement against the petitioner Diwakar Kushwah @ Diwakar Kumar Kushwah as per Annexure R-2

[6] Learned counsel appearing on behalf of respondent No. 2 has confirmed the factum of compromise between the parties.

[7] On 04.09.2023, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise.

[8] The report dated 28.09.2023 of the Judicial Magistrate, Ist Class, Faridabad, through the District & Sessions Judge, Faridabad, has been received. As per said report, the compromise between the parties is genuine.

The relevant portion of the said report reads as under:-

“Following information sought by the Hon'ble Punjab & Haryana High court is sent herewith.

1.Number of person arrayed as accused in FIR.

As per the statement of Investigating Officer, total 7 accused were mentioned in the FIR but during investigation apart from the present accused only, remaining 6 accused were found innocent and their names was not mentioned in the above stated FIR.

2. Whether any accused is proclaimed offender.

As per the statement of Investigating Officer, accused has never been declared proclaimed offender in this case.

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

In the view of the aforesaid facts and statement of complainant qua compromise, I am of the considered view that the compromise effected between the parties appears to be without any threat or pressure from either side and is made out of free volition of the parties.

4. Whether the accused persons are involved in any other case or not.

As per the statement of Investigating Officer, apart this case no any other criminal case is pending against accused.

5. The trial court is directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

As per the statement of the Investigating Officer, there is only one victim/complainant in the above stated FIR case.”

[9] Learned State counsel has not raised any objection regarding the acceptance of the present petition.

[10] Hon'ble the Full Bench of this Court in Kulwinder Singh and others vs. State of Punjab and others 2007 (3) RCR (Criminal) 1052, has held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offences and quash the proceeding where the High Court is of the opinion that it is required to prevent the abuse of process of law or otherwise to secure the ends of justice.

[11] Since it was a matrimonial dispute between the petitioner and respondent No. 2 which has been now resolved as such, further proceedings on the basis of the present FIR is not in the interest of parties, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

[12] Consequently, this petition is allowed and FIR No. 17 dated 25.01.2021, registered at Police Station Women, District Faridabad, under Sections 323, 406, 498-A and 506 of the IPC and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

[13] Pending miscellaneous application (s), if any, shall also stand disposed of.

January 24, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No