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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41253-2023 (O&M)
Date of Decision: 24.01.2024

ASHOK KUMAR YADAV

.. Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gautam Kaile, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Ms. Poonam, Advocate for Mr. Amit Khari, Advocate for respondent No.2.

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SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.90 dated 04.09.2020 registered under Sections 323, 406, 498-A and 506 of Indian Penal Code at Women Police Station, Ambala District Ambala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 16.12.2022 (Annexure P-2), which is stated to have been effected between the parties.

2 On 21.08.2023, the following order was passed:

“1. Petitioner is seeking to quash the FIR No.90 dated 04.09.2020 registered under Sections 323, 406, 498-A and 506 of Indian Penal Code at Women Police Station, Ambala District Ambala along with all consequential proceeding arising therefrom on the basis of compromise.

2. Learned counsel for the petitioner contends that initially the FIR was registered against the petitioner and four other family members, who were found innocent during the course of investigation and challan has been presented only against the petitioner. The marriage of the petitioner was solemnized with respondent No. 2 on 16.02.2017 and a son has been born from the wedlock. The matrimonial dispute between the parties has been amicably settled in terms of compromise

Annexure P-2. The petitioner and respondent No. 2 have instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of their marriage with mutual consent, wherein statement of the parties at the stage of first motion has been recorded. Furthermore, the petitioner shall pay a sum of Rs. 5,00,000/- on account of permanent alimony to respondent No. 2 out of which Rs. 2,50,000/- has already been paid and the balance amount shall be paid at the time to recording of statements of the parties at the stage of second motion. Respondent No. 2 has received all her articles of stree dhan and nothing else is due payable to her by the petitioner. The respondent No. 2 has withdrawn the petition under Section 125 of Cr.P.C. and no other case is pending between the parties. The custody of minor son shall remain with respondent No. 2.

3. Notice of motion.

4. Mr. Ranvir Singh Arya, Addl. AG Haryana, who is present in the Court accepts notice on behalf of respondent No.1-State and Ms.Poonam, Advocate has appeared on behalf of respondent No. 2 and admitted the factum of compromise.

5. In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court on 13.09.2023 to get their statement(s) recorded with regard to compromise/settlement. 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.

6. The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- i. Number of persons arraigned as accused in FIR;*
- ii. Whether any accused is proclaimed offender;*
- iii. Whether the compromise is genuine, voluntary, without any coercion or undue influence;*
- iv. Whether the accused persons are involved in any other case or not;*
- v. 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. The report of the Illaqa Magistrate/trial Court be awaited for 15.11.2023.”

3. Pursuant to the aforesaid order, report dated 12.10.2023 from ld. JMIC, Ambala has been received, which is taken on record.

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

“In this regard, points wise detail, as directed, is humbly submitted as under:-

(1). There are five persons who have been arrayed as

accused in the present case and only one accused namely Ashok Kumar Yadav s/o Palak Dhari Yadav, r/o G-3/37, Sector-16, Rohini, North-West Delhi-110089 was arrested in the present case FIR no.90 dated 04.09.2020, Police Station Women Ambala (Ambala), under sections 323, 406, 498-A, 506 of IPC, titled as State Versus Ashok Kumar Yadav.

(2) No accused is declared proclaimed offender in the present case or (in any other criminal case.

(3) Matter has been compromised between the parties and compromise is genuine, voluntary, without any coercion or undue influence or pressure from any corner. This compromise has taken place between the parties with their free will and the same is not the result of any fraud or misrepresentation in any manner.

(4) Accused person are not involved in any other FIR/criminal case except the aforesaid case.

(5) Typed statement of Investigating Officer placed on the record and as per statement of Investigating Officer, there are five accused arrayed as accused in the present case FIR no.90 dated 04.09.2020, Police Station Women Ambala (Ambala), under sections 323, 406, 498-A, 506 of IPC, titled as State Versus Ashok Kumar Yadav but only accused Ashok Kumar Yadav was arrested in the present case and only one victim/complainant i.e. Pratibha Yadav w/o Ashok Kumar Yadav and d/o Ram Yadav r/o House no.69, Parshuram Colony, Ambala City, District Ambala (Haryana) and they are the only parties in the present matter and no other person or party is involved therein.

The report of Investigating Officer is also enclosed herewith for kind perusal.

In view of the statement of the parties, it appears that the parties have compromised the matter in dispute voluntarily, without any pressure, coercion or undue influence from any corner and the compromise is genuine and is result of free will of the parties and is not in any way result of any fraud or misrepresentation.”

4. Learned counsel for respondent No.2 admits the fact of parties having compromised and states that she 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.90 dated 04.09.2020 registered under Sections 323, 406, 498-A and 506 of Indian Penal Code at Women Police Station, Ambala District Ambala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 16.12.2022 (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