

CRM-M-43557-2023

2024:PHHC:048783

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43557-2023

Date of Decision : April 04, 2024

Dalwinder Singh Vartiya and ors.

.....Petitioners

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Shivam Sharma, Advocate for the petitioners.

Mr. J.S. Arora, DAG Punjab.

Mr. Aman Chabra, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, petitioners are seeking quashing of FIR No.08 dated 22.03.2021 registered under Sections 498-A, 406 and 506 of IPC, 1860 at Police Station Women Cell, Bathinda, District Bathinda and all consequent proceedings arising therefrom on the basis of compromise.

2 On 02.09.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.08 dated 22.03.2021 under Sections 498-A, 406, 506 of the Indian Penal Code, 1860 registered at Police Station Women Cell, Bathinda, District Bathinda, and all other consequential proceedings arising there-from, on the basis of a compromise dated 20.07.2023 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners would contend that the parties have since compromised their dispute vide compromise dated 20.07.2023 (Annexure P-2) and that a petition under Section 13-B of the Hindu Marriage Act, 1955 has also been filed wherein the statements of first motion stand recorded. Learned counsel for the petitioners has relied upon the judgement of Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgement of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Ms. Nargis, Advocate appearing for Mr. Aman Chabra, Advocate accepts notice for respondent No.2/complainant. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. She further submits that the said compromise has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 06.12.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 26.09.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

1) Whether the compromise dated 20.07.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

2) Whether any other criminal cases are pending against the parties.

3) Whether any proclamation proceedings are pending against either of the parties.

3 Pursuant to the aforesaid order, report dated 30.09.2023 from Judicial Magistrate 1st Class, Bathinda has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that in compliance to directions given by the Hon’ble Punjab and Haryana High Court vide its order dated 02.09.2023 passed in CRM-M-43557 of 2023, complainant namely Veerpal Kaur and accused Dalwinder Singh Vartiya, Jagir Singh and Sheela Kaur @ Pal Kaur appeared in Court and their statements regarding compromise were recorded on 26.09.2023 and statement of ASI Resham Singh is recorded today i.e. 28.09.2023.

Complainant namely Veerpal Kaur suffered statement to the effect that FIR No.08 dated 22.03.2021 under Section 498-A, 406 and 506 of IPC, PS Women Cell, Bathinda were registered on the basis of statement of complaint made by her against accused Dalwinder Singh Vartiya, Jagir Singh and Sheela Kaur @ Pal Kaur. She has voluntarily arrived at compromise with the accused without any pressure, threat or coercion with her own will vide settlement/agreement before Mediation and Conciliation Centre of Punjab and Haryana High Court, Chandigarh copy of which is Mark A. No person has been declared as proclaimed offender in the present case. She has no objection if the abovesid FIR is quashed against the accused. Today she has brought her identity proof and photocopy of another card and same is Ex.C4 (original seen and returned). She also paster her photograph on her statement.

Accused Dalwinder Singh Vartiya suffered statement to the effect that FIR No.08 dated 22.03.2021 under Section 498-A, 406 and 506 of IPC, Women Cell, Bathinda were registered on the basis of complaint made by Veerpal Kaur against him and Jagir Singh and Sheela Kaur @ Pal Kaur. He has voluntarily arrived at compromise with the complainant without any pressure, threat or coercion with his own will vide settlement/agreement before Mediation and Conciliation

Centre of Punjab and Haryana High Court, Chandigarh copy of which is Mark A. No person has been declared as proclaimed offender in the present case. It is prayed that FIR may kindly be quashed. He has brought his identity proof and photocopy of adhar card is Ex.C1 (original seen and returned). He also pasted his photograph on his statement.

Accused Jagir Singh suffered statement to the effect that FIR No.08 dated 22.03.2021 under section 498A, 406 and 506 of IPC, PS Women Cell, Bathinda were registered on the basis of complaint made by Veerpal Kaur against him and Dalwinder Singh Vartiya and Sheela Kaur (a Pal Kaur. He has voluntarily arrived at compromise with the complainant without any pressure, threat or coercion with his own will vide settlement/agreement before Mediation and Conciliation Centre of Punjab and Haryana High Court, Chandigarh copy of which is Mark A. No person has been declared as proclaimed offender in the present case. It is prayed that FIR may kindly be quashed. He has brought his identity proof photocopy of adhar card is Ex.C2 (original seen and returned). He also pasted his photograph on his statement.

Accused Sheela Kaur @ Pal Kaur suffered statement to the effect that FIR No.08 dated 22.03.2021 under section 498A, 406 and 506 of IPC, PS Women Cell, Bathinda were registered on the basis of complaint made by Veerpal Kaur against her and Dalwinder Singh Vartiya and Jagir Singh. She has voluntarily arrived at compromise with the complainant without any pressure, threat or coercion with his own will vide settlement/agreement before Mediation and Conciliation Centre of Punjab and Haryana High Court, Chandigarh copy of which is Mark A. No person has been declared as proclaimed offender in the present case. It is prayed that FIR may kindly be quashed. She has brought her identity proof, photocopy of adhar card is Ex.C3 (original seen and returned). She also pasted her photograph on her statement.

Statement of ASI Resham Singh was also recorded to the effect that he is investigating officer of FIR No.08 dated 22.03.2021 under section 498A, 406 and 506 of IPC, PS Women Cell, Bathinda. As per record, there are three accused namely Dalwinder Singh Vartiya, Jagir Singh and Sheela Kaur @ Pal Kaur in the present case and there is one complainant namely Veerpal kaur in the present FIR have freely entered into compromise dated 20.07.2023 without any undue influence, coercion or pressure of any kind. No other criminal case is pending against them. Accused are not involved in any other case. No

person has been declared as proclaimed offender in the said FIR.

In view of statements given by the parties and ASI Resham Singh following report is hereby submitted as desired by your's goodself:-

1. It is respectfully submitted that there are three accused namely Dalwinder Singh Vartiya, Jagir Singh and Sheela Kaur @ Pal Kaur arrayed as accused in the present FIR.

2. As per record no accused has been declared as proclaimed offender.

3. It is further submitted that in view of statements given by the parties, this Court is of the considered opinion that compromise dated 20.07.2023 has been freely entered between parties is genuine and it is effected voluntarily, without any pressure, coercion with their free will from any quarter.

5. Statement of investigating officer is recorded and as per his statement there is one victim/complainant namely Veerpal Kaur in the Present FIR.

This report along with statements of parties i.e. complainant namely Veerpal Kaur and accused Dalwinder Singh Vartiya, Jagir Singh and Sheela Kaur @ Pal Kaur and Investigating officer ASI Resham Singh submitted, as desired by the Hon'ble High Court vide its order dated 02.09.2023.”

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 petitioners are quashed.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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 recognizing compromise between parties in non-

compoundable offences in the cases of *Gian Singh vs. State of Punjab and another*, 2012(10) SCC 303, *State of Madhya Pradesh vs. Laxmi Narayan and others* (2019) 5 SCC 688, *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 and *Mohammad Wajid & anr. Vs. State of U.P. & ors*, 2023 AIR (SC) 3784. 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 wiser 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.

(h) When it comes to quashing of FIR on criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.

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) The present matter does not fall within the exceptions as carved out in **Laxmi Narayan's** case (supra) i.e. heinous offence.*
- (ii) The offences alleged are 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.08 dated 22.03.2021 registered under Sections 498-A, 406 and 506 of IPC, 1860 at Police Station Women Cell, Bathinda, District Bathinda and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

04.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No