

CRM-M-45383-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-45383-2023

Date of decision: 26.02.2024

Sanjeev Kumar and others

....Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rohit Joshi, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG Haryana.

Mr. Ramesh Kumar Dhiman, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.42 dated 03.12.2015 under Sections 406, 498-A, 506, 34 of IPC, registered at Women Police Station, District Gurgaon, and all consequent proceedings arising therefrom on the basis of compromise/settlement dated 08.02.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 07.11.2023, the following order was passed:

- “1. The petitioners are seeking to quash the FIR No. 42 dated 03.12.2015 under Sections 406, 498-A, 506, 34 IPC registered at Women Police Station, District Gurgaon on the basis of compromise.
2. Learned counsel for the petitioners contend that Som Raj, one of the accused, who is father-in-law of respondent No.2 has died on 03.02.2016 and Annexure P-6 is the copy of the death certificate. The marriage of petitioner No.1 was solemnized with respondent No.2 on 23.10.2013 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in the Mediation and Conciliation Centre of this Court, in terms of the settlement/compromise, Annexure P-2. The petitioner No.1 shall pay a sum of ₹7,00,000/- to respondent No.2 on

account of permanent alimony. Petitioner No.1 and respondent No.2 have instituted a petition under Section 13- of the Hindu Marriage Act for dissolution of marriage by mutual consent in the learned Family Court, Gurugram, wherein statements of the parties at the stage of first motion have been recorded. A sum of 3,50,000/- has been paid and the balance amount shall be paid when the statements of the parties at the stage of second motion is recorded. Respondent No.2 has received all her articles of Istridhan and nothing else is due payable to her by petitioner(s). The petitioner has withdrawn the petition under Section 9 of the Hindu Marriage Act, 1955. Respondent No.2 shall also withdraw the application under Section 125 Cr.P.C and Section 12 of the Protection of Women from Domestic Violence Act. No other case is pending between the parties.

3. *Mr. Ramesh Kumar Dhiman, Advocate has put appearance on behalf of the complainant-respondent No.2 and has acknowledged the fact of amicable settlement having been effected between the parties.*

4. *Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 30.11.2023 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.*

5. To await the report, adjourned to 19.12.2023.”

3. Pursuant to the aforesaid order, report dated 13.12.2023 from Judicial Magistrate Ist Class, Gurugram has been received, which is taken on record.

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

“With respect to FIR No. 42 of 2015 PS. Women Police Sution. Gurugram, vide Order dated 07.11.2023 of Hon'ble Mr. Justice Vivek Puri of Hon'ble Punjab & Haryana High Court, the parties were directed to appear

before the trial Court/Illaq Magistrate for getting their statements recorded regarding the compromise reached between them. in furtherance of the said directions separate statement of complainant Jyoti and of accused Sanjeev Kumar, duly identified, were recorded. It has been verified that both the complainant and the above said accused have entered into compromise without any undue influence or coercion and same is genuine & voluntary. Further, statement of I.O. ASI Vijeta is also recorded to the effect that on completion of investigation in case. challan U/s 498A, 506, 406 read with Section 34 IPC was presented before the Hon'ble Court agamst accused Sanjeev Kumar on 09.05.2016. The IO further submitted that accused Sanjeev Kumar is not involved in any other case and he has not been declared PO in this case. The IO further stated that there is only one complainant/victim (Jyoti) in present case. The IO further stated that the present FIR was registered against mother-in-law (Bimla Devij, sister-in-law (Shobha Rani. father-in-law (Somraj) and husband (Sanjeev Kumar). The IO further submitted that the name of mother-in-law & sister-in-law were removed in present case and father-in-law had expired before tendering of challan. The Court is satisfied that the compromise entered into between the parties to case is genuine, voluntary without any coercion or undue influence. The report of this Court along with the copies of statements and Order of this Court are attached herewith for onward transmission to the Hon'ble High Court.

Thanking you,"

4. Learned counsel for respondent 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 petitioners are 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.42 dated 03.12.2015 under Sections 406, 498-A, 506, 34 of IPC, registered at Women Police Station, District Gurgaon and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 08.02.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 26, 2024
Ajay

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