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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46785-2023 (O&M)
Date of Decision: 29.01.2024

Suraj Jogendra Jaiswar & another

.. Petitioners

Vs.

State of Punjab & another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.R. Rana-I, Advocate for the petitioners.

Mr. Hemant Aggarwal, AAG, Punjab.

Mr. Vipin K. Sharma, Advocate
for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0002 dated 09.01.2020 under Sections 406/498-A IPC registered at Police Station Women Cell, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 04.08.2023 (Annexure P-3), which is stated to have been effected between the parties.

2 On 10.10.2023, the following order was passed:

“1. The petitioners seek to quash the FIR No.0002 dated 09.01.2020 under Sections 406/498-A IPC registered at Police Station Women Cell, Ludhiana on the basis of compromise.

2. Learned counsel for the petitioners contends that allegations were levelled against the petitioners and other relatives but the FIR has been registered only against the petitioners. The marriage of petitioner No.1 was solemnized with respondent No.2 on 25.04.2016 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of the compromise, Annexure P-3. Petitioner No.1 shall pay a sum of Rs.7,30,000/- to respondent No.2 on account of permanent alimony. Petitioner No.1 and respondent No.2 shall institute a

petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent. Respondent No.2 has received all her articles of istridhan. Respondent No.2 shall withdraw the application under Section 12 of the Protection of Women from Domestic Violence Act and petitioner No.1 shall with the petition under Section 13 of the Hindu Marriage Act. No other case is pending between the parties.

3. Notice of motion.

4. Ms. Ruchika Sabharwal, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

5. Mr. Vipin K. Sharma, Advocate, has appeared on behalf of respondent No.2, placed on record power of attorney and acknowledged the fact of compromise.

6. The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 02.11.2023. 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.

7. 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.

8. To await the report, list again on 12.12.2023.”

3. Pursuant to the aforesaid order, report dated 30.11.2023 from ld.

JMIC, Ludhiana has been received, which is taken on record. As per the

report, the Trial Court has recorded as follows:-

“.....2. The undersigned has recorded the separate statement of complainant namely Sonia D/o Sham Dev stated in her statement that she is the complainant of the present case and on her statement present case bearing FIR No.2 dated 09.01.2020, u/s 406, 498-A IPC, PS Women, Ludhiana was registered against accused namely Suraj Jogendra Jaiswar and Sita Devi. Now with the intervention of respectables, she has entered into compromise with the accused without any

pressure, coercion and undue influence. She has no objection, if the present FIR be quashed. She has also placed on record copy of her Aadhar card as her identity proof. Thereafter, separate statement of accused Suraj Jogendra Jaiswar and Sita Devi were recorded who in their statement stated that with the intervention of respectables, they have entered into compromise with the complainant Ramandeep Kaur without any pressure, coercion and undue influence and they have no objection if quashing petition is accepted. They have also placed on record the copy of their adhaar cards as their identity proof. Thereafter, undersigned recorded the statement of SI Sukhwinder Singh No.2510/Ldh, Posted at Women, Ludhiana who in his statement stated the he has verified the facts of the present case and as per record present FIR has been registered against accused Suraj Jogendra Jaiswar and Sita Devi. Also, Sonia is the only complainant in the present case. He further stated that above said accused have never been declared PO by any court nor any other criminal case is registered against them.

3. The undersigned has orally asked the accused and complainant about the compromise to which they submitted that the compromise is genuine, voluntary and without any coercion or undue influence. Hence, I am of the considered view that the compromise between the complainant and accused is valid, genuine, voluntary and without any coercion or undue influence. There are only two accused arrayed in the present FIR namely Suraj Jogendra Jaiswar and Sita Devi. Also, Sonia is the only complainant in the present case. Now matter has been compromised between the parties.”

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-3).

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.***

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.0002 dated 09.01.2020 under Sections 406/498-A IPC registered at Police Station Women Cell, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 04.08.2023 (Annexure P-3), is, hereby, quashed qua the petitioners.

29.01.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No