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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49948-2022 (O&M)
Date of Decision: 29.01.2024

Krishna Devi and others

.. Petitioners

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manmeet Singh, Advocate for
Mr. Yashpal Thakur, Advocate for the petitioners.

Mr. Hemant Aggarwal, AAG, Punjab.

Ms. Aarushi Garg, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.91 dated 25.11.2021 under Sections 406/498-A of IPC, registered at Police Station, Women, Patiala, District Patiala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 25.08.2022 (Annexure P-5), which is stated to have been effected between the parties.
- 2 On 16.03.2023, the following order was passed:

“In compliance of the order dated 17.10.2022 in CRM-M-12463-2022 which is a petition for grant of anticipatory bail to the petitioners, the matter had been relegated to the Mediation Centre and, hence, the petitioners were granted the concession of anticipatory bail.

In pursuance to said agreement, the petitioner has handed over a demand draft of Rs.1,00,000/- to the counsel for respondent No.2 in the Court today and counsel for respondent No.2 submits that both the parties are bound by the terms and conditions of the agreement and shall execute the other terms and conditions in due course of time. Accordingly, the parties are directed to get their statements recorded and also file the

affidavits that the other terms and conditions of the settlement have been acted upon before the next date of hearing.

Adjourned to 04.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 29.03.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 19.12.2023 from ld.

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

the Trial Court has recorded as follows:-

“Complainant Sandeep Kaur and accused Krishna Devi, Balbir Singh and Surinder Singh have suffered separate statements to the effect that they have compromised the matter with each other without their being any pressure, coercion or undue influence. As per the statement of complainant Sandeep Kaur and accused Krishna Devi, Balbir Singh and Surinder Singh compromise is genuine one, voluntarily and without any coercion.

From the statements of the parties, this Court is of the opinion that matter has been amicably settled between the petitioner/accused namely Krishna Devi, Balbir Singh and Surinder Singh and complainant Sandeep Kaur. The said compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties.

So as to verify the number of accused in the FIR and parties are not involved or declared proclaimed offender in any other criminal case, this Court has recorded the statement of ASI Baljinder Singh, No.1413/PTA, presently posted at PP Bahadurgarh, Patiala. As per his statement, in the present case as per the FIR No.91 dated 25.11.2021, under section 406, 498A IPC, Police Station Women Cell, Patiala, Krishna Devi, Balbir Singh and Surinder Singh have been arrayed as accused. As per record, accused Krishna Devi, Balbir Singh, Krishna Devi and Surinder Singh have never declared as proclaimed offender in this case or in any other criminal case and no other criminal case is pending against any of the accused.”

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-5).

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.91 dated 25.11.2021 under Sections 406/498-A of IPC, registered at Police Station, Women, Patiala, District Patiala and all consequent proceedings arising therefrom on the basis of compromise/affidavit 25.08.2022 (Annexure P-5), is, hereby, quashed qua the petitioners.

29.01.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No