

125-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47917-2023 (O&M)

Date of Decision: 19.01.2024

Amandeep Singh

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mohan Singh Chauhan, Advocate for the petitioner.

Mr. Hemant Aggarwal, AAG, Punjab.

Mr. R.S. Dhaliwal, Advocate
for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.84 dated 18.09.2019 under Sections 498-A/406 of IPC, registered at Police Station Women, Police Commissionerate, Jalandhar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 29.07.2023 (Annexure P-2), which is stated to have been effected between the parties. Further, it is prayed that the order dated 16.03.2021 (Annexure P-3), whereby the petitioner was declared proclaimed offender be also quashed.

2 On 30.10.2023 , the following order was passed:

“1. In CRM-M-41916-2023, the petitioners who are the father-in-law and mother-in-law of respondent No.2 are seeking to quash the FIR bearing No.84 dated 18.09.2019, under Sections 406/498-A IPC, registered at Women Police Station, Police Commissionerate, Jalandhar on the basis of compromise.

2. In CRM-M-47917-2023, the petitioner who is the husband of respondent No.2 is seeking to quash the aforesaid FIR along

with the order dated 16.03.2021 vide which he has been declared as proclaimed offender on the basis of compromise.

3. Learned counsel for the petitioners contend that the marriage of Amandeep Singh-petitioner was solemnized with respondent No.2 on 21.01.2019 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise deed dated 29.07.2023 (Annexure P-2). Amandeep Singh-petitioner and respondent No.2 have resumed co-habitation. Respondent No.2 is happily residing in the matrimonial house with her husband. No other case is pending between the parties.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, DAG, Punjab accepts notice on behalf of the respondent-State.

6. Mr. R.S. Dhaliwal, Advocate has put in appearance on behalf of respondent No.2 in both cases and filed power of attorney. He has acknowledged the fact of compromise.

7. The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 21.11.2023. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any date convenient to the Court concerned.

8. 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.

9. To await the report, list again on 14.12.2023.

10. Meanwhile, the operation of order dated 16.03.2021 shall remain stayed.

11. Photocopy of this order be placed on the file of other connected case.”

3. Pursuant to the aforesaid order, report dated 23.11.2023 from the ld.

JMIC, Jalandahr has been received, which is taken on record.

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

“As per record the name of the complainant of the present case is Jaspreet Kaur and except her there is no other complainant in this FIR. The name of the accused persons are Amandeep Singh, Iqbal Singh and Pushminder Kaur. Except them, there are no other person nominated by the police as accused. As per

record, accused persons are neither involved in any other case in Jalandhar nor accused Iqbal Singh and Pushminder Kaur has declared proclaimed offender in any other criminal case in Jalandhar. As per record accused Amandeep Singh declared as proclaimed offender in this FIR on dated 16.03.2021 and at present the said proceedings has been stayed by the Hon'ble High Court in CRM-M-41916-2023 and CRM-M-47917-2023. Police has already presented a challan in this case and the same is pending for the evidence of the prosecution.

Both parties have compromised the matter. There is no grudge remain between parties. The Compromise is voluntarily, without any pressure or coercion. This court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.”

4. Learned counsel for respondents 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 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.84 dated 18.09.2019 under Sections 498-A/406 of IPC, registered at Police Station Women, Police Commissionerate, Jalandhar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 29.07.2023 (Annexure P-2), is also quashed qua the petitioner. In view of the parties having settled the matter by way of compromise & statements to that effect having been recorded before the ld. trial Court/Illaq Magistrate, the order dated 16.03.2021 loses its significance. Accordingly, in the interest of justice as also equity and fair play, the same is quashed.

19.01.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No