

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

281

CRM-M-49371-2023

Date of decision: 26.02.2024

Ankit @ Ankit Mittal and others

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kuldip Singh, Advocate for the petitioners.
Mr. Yuvraj Singh, AAG Punjab.
Mr. Kulwinder Singh, Advocate for
Mr. R.K. Kachura, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.86 dated 07.08.2023 under Sections 498-A and 406 of IPC and Section 4 of Dowry Prohibition Act, 1961 registered at Police Station, City-2 Abohar, District Fazilka, and all consequent proceedings arising therefrom on the basis of compromise dated 05.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 29.09.2023, the following order was passed:

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.86 dated 07.08.2023 under Sections 498-A, 406 of the Indian Penal Code, 1860 and Section 4 of Dowry Prohibition Act, 1961 registered at Police Station City-2 Abohar, District Fazilka, and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide compromise deed dated 05.09.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that all the disputes stand resolved between the parties and the parties have entered into written compromise dated 05.09.2023. Learned counsel would further contend that though in the compromise it has been stated that 50% of the

settled amount is to be paid at the time of recording of the statements of first motion and a petition is to be filed under Section 13-B of the Hindu Marriage Act, 1955, however 50% of the settled amount already stands paid whereas petition under Section 13-B of the Hindu Marriage Act, 1955 is yet to be filed. He, however, states that in view of the settlement between the parties, the FIR may be quashed in terms of the law laid down by the Hon'ble Supreme Court in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgment 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, AAG Punjab accepts notice on behalf of respondent No.1-State, Mr. R.K. Kachura, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that 50% of the settlement amount stands paid to respondent No.2. However, petition under Section 13-B of the Hindu Marriage Act, 1955 is yet to be filed. Learned counsel further states that respondent No.2 would have no objection if the FIR is quashed.

List on 19.12.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 06.11.2023, 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 settlement/compromise dated 05.09.2023 (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.*

It is made clear that the present petition shall be kept pending before this Court till the recording of the second motion statements under Section 13-B of the Hindu Marriage Act, 1955."

3. Pursuant to the aforesaid order, report dated 20.11.2023 from Judicial Magistrate Ist Class, Abohar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. It is respectfully submitted that, in the above noted case the parties were directed to appear before the concerned CJM/Illaq Magistrate /Trial Court on 06.11.2023 or on any other date convenient for recording their statement with regard to compromise vide order dated 29.09.2023. On 03.11.2023 petitioners Ankit @ Ankit Mittal, Suman Aggarwal @ Suman and Gaurav @Gaurav Mittal and complainant/respondent no.2 Radha wife of Ankit @ Ankit Mittal appeared before this Court and recorded their statements with regard to compromise, in pursuance of above said order. Accordingly, in view of order dated 29.09.2023, statement of complainant as well as petitioners/accused persons were recorded.

2. Complainant/respondent no.2 namely Radha recorded her statement to the effect that FIR was registered against accused persons on her statement. She further stated that no other person has been arrayed as accused in present FIR. Herself complainant in present case. In present case, compromise has been effected with their free consent and without any pressure with above accused. She has no objection if above FIR against above accused persons are quashed by Hon'ble High Court.

3. Similarly, accused/petitioner namely Ankit @ Ankit Mittal, Suman Aggarwal@Suman and Gaurav @ Gaurav Mittal also got recorded their statement to the effect that they have compromised with complainant Radha wife of Ankit, resident of Kandhwala Road, Tina Colony, Durga Nagri, Abohar in present FIR with their free consent and Will. There is no pressure pon them. They have not been declared as proclaimed offender. There is no other FIR registered against them.

4. It is further submitted that statement of Investigating Officer ASI Bhupinder Singh, no. 679/FZK, PS City-II, Abohar, also recorded, who has submitted that, present case was registered on the statement of Radha wife of Abnkit daughter of Raj Kumar, residents of street no.5-6 Durga Nagri, Abohar. There are three accused persons namely Ankit Mittal son of Jai Bhagwan, Gaurav Mittal son of Jai Bhagwan and Suman Aggarwal wife of Jai Bhagwan residents of Nehra Nagar Dhani Laxmi, Sri Ganganagar (Rajasthan). The FIR was registered against said Ankit Mittal and their family members. No accused has been declared proclaimed persons. There is no other FIR/case is pending against accused persons. There is only one complainant/victim in present case.

5. *In compliance to the aforesaid order dated 29.09.2023 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted that the report of undersigned is as follows:-*

1. *It is submitted that the settlement/compromise dated 05.09.2023 has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*

2. *It is submitted that as per statement of investigating officer, there is no any other criminal cases are pending against the parties.*

3. *It is submitted that as per statement of investigating officer, there is no any proclamation proceedings are pending against either of the parties.*

6. *As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself."*

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.86 dated 07.08.2023 under Sections 498-A and 406 of IPC and Section 4 of Dowry Prohibition Act, 1961 registered at Police Station, City-2 Abohar, District Fazilka and all consequent proceedings arising therefrom on the basis of compromise dated 05.09.2023 (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