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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50481-2023 (O&M)
Date of Decision: 04.03.2024

PRITPAL SINGH

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Raghav Soni, Advocate for
Mr. Vikas Gupta, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Ms. Vibhakti Chaudhary, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.316 dated 19.08.2022 registered under Sections 498-A and 323 of the Indian Penal Code, 1860 at Police Station Goindwal Sahib, District Tarn Taran and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 30.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 17.11.2023, the following order was passed:

“.....This is a petition under Section 482 Code of Criminal Procedure, 1973 for quashing of FIR No.316 dated 19.08.2022 registered under Sections 498-A and 323 of the Indian Penal Code, 1860 at Police Station Goindwal Sahib, District Tarn Taran, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 30.09.2023 (Annexure P-2).

Learned counsel for the petitioner would contend that the present FIR is the outcome of a matrimonial discord and now all the disputes stand settled between the parties and they have also filed a joint petition for grant of divorce by mutual

consent under Section 13-B of the Hindu Marriage Act, 1955. Learned counsel for the petitioner has relied upon the judgment by the Hon'ble Supreme Court rendered in "Gian Singh Vs. 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.

Mr. Adhiraj Singh Thind, AAG Punjab, who is present in Court, accepts notice on behalf of respondent No.1-State. Mr. Vivek Singla, Advocate assisting counsel of Mr. D.S. Gandhi, Advocate has put in appearance and accepts notice on behalf of respondent No.2 and has filed his power of attorney, which is taken on record. He has also reiterated that the parties have since entered into the compromise voluntarily and willingly and that respondent No.2 would have no objection if the aforesaid FIR is quashed in view of the compromise dated 30.09.2023.

List on 28.02.2024.

Meanwhile, the petitioner and respondent No.2 shall appear before the concerned CJM/Illaq Magistrate/Trial Court on 18.12.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record 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 30.09.2023 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."*

3. Pursuant to the aforesaid order, report dated 22.12.2023 from ld.

JMIC, Khadur Sahib has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"The statement of ASI Baljinder Singh, belt No.1483/T.T. was also recorded, as per statement of Investigating Officer, he mentioned that the present FIR was registered on the statement of complainant Harpreet Kaur, daughter of Harbhajan Singh, resident of Gali Resham Singh Wali, Near Hari Ram Sheller, Noordi Adda, Tehsil and District Tarn Taran against one accused persons namely Pritpal Singh son of Harjit Singh.

- 1. That no other criminal case is pending against the parties.*
- 2. That no any proclamation proceedings are pending against either of the parties.*

In view of the statement of the parties to the case it is hereby submitted that the compromise drawn amongst the parties concerned is genuine and without any coercion or undue influence from any corner.”

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 petitioner 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.316 dated 19.08.2022 registered under Sections 498-A and 323 of the Indian Penal Code, 1860 at Police Station Goindwal Sahib, District Tarn Taran and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 30.09.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

10. Pending application(s), if any, shall also stand disposed off.

04.03.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No