

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

279

CRM-M-51067-2023
Date of decision: 12.03.2024

SANTOSH DEVI AND ORS.

...PETITIONERS

V/s

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Virender Kumar, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Mandeep Singh Jangu, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.293 dated 05.11.2021 under Sections 323, 354-A, 34, 406, 498-A,506 of IPC, registered at Police Station, Bahuakbarpur, Rohtak and all consequential proceedings arising therefrom on the basis of compromise dated 06.09.2022 (Annexure P-2), which is stated to have been effected between the parties.
2. On 10.10.2023, the following order was passed:

This is a petition under Section 482 Code of Criminal Procedure, 1973 for quashing of FIR No.293 dated 05.11.2021 registered under Sections 323, 354-A, 34, 406, 498-A and 506 of the Indian Penal Code, 1860 at Police Station Bahuakbarpur, District Rohtak, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 12.07.2023 (Annexure P-2). Learned counsel for the petitioners would contend that the present FIR is the result of matrimonial discord and now all the disputes between the parties stand resolved and they have entered into a written compromise dated 12.07.2023. It has further been contended that on the basis of compromise a petition under Section

13-B of the Hindu Marriage Act, 1955 has also been filed by the parties in which their statements of the first motion stand recorded. Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered 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.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana, who is present in Court, accepts notice on behalf of respondent No.1-State

Mr. Mandeep Singh Jangu, Advocate has put in appearance on behalf of respondent No.2 and has filed his memo of appearance, 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 12.07.2023.

List on 22.01.2024.

Meanwhile, the petitioner(s) and respondent No.2 shall appear before the concerned CJM/Illaq Magistrate/Trial Court on 28.11.2023, or on any other date convenient to the Court, for recording of their statements.

The CJM/Illaq Magistrate/Trial Court is directed to record 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 12.07.2023 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 13.02.2024 from Link Magistrate Ist Class, Rohtak has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"1. In above mentioned CRM-M-51067-2023 titled: Santosh Devi & ORS. Vs. State OF Haryana & Anr., the Hon'ble High Court was pleased to pass order dated 10.10.2024 for recording the statement of the parties with regard to compromise among them.
2. The order was received through proper channel vide Endst No. 743-44 dated 09.02.2024, being the Link Magistrate as Sh. Abhimanyu Rajput, learned Judicial Magistrate First Class-cum-Civil Judge (Jr. Divn.), Rohtak is Compensatory Leave.
3. The case concerned titled: State Vs. Manoj & Others (F.I.R. No. 293 of 05.11.2021 (P.S. Bahu Akbarpur, Rohtak), C.I.S. No. CHI-412-2022) is pending adjudication before the Concerned Court.
4. On dated 09.02.2024, Complainant Rekha, accused namely Manoj, Krishan and Santosh came present along with their counsel for recording of statement. They were identified by their counsel. I.O. has also come present and his statement is recorded.

5. As per the order dated 10.10.2023 of Hon'ble High Court, requisite information as sought is hereinafter recorded:-

(i) Settlement/compromise dated 13.07.2023 has been freely entered into between the parties without any undue influence, coercion or presence of any kind.

(ii) As per the statement of Investigation Officer no other case is pending against the parties.

(iii) As per the statement of Investigating Officer no proclamation proceedings are pending against either of the parties.

6. Requisite statements as desired is accordingly submitted.”

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 the Hon'ble 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 the Hon'ble 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 of 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.293 dated 05.11.2021 under Sections 323, 354-A, 34, 406, 498-A,506 of IPC, registered at Police Station, Bahuakbarpur, Rohtak and all consequential proceedings arising therefrom on the basis of compromise dated 06.09.2022 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

March 12, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No