

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-50776 of 2023

DATE OF DECISION :- 16.01.2024

Manbir Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Jaswinder Singh Rana, Advocate
for Mr. Deepak Arora, Advocate for the petitioners.

Mr. Adhiraj Singh, AAG, Punjab.

Mr. G.S. Rawat, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.95 dated 02.09.2021 under Sections 498-A, 406 of IPC, registered at Police Station, Kalanaur, District Gurdaspur and all consequent proceedings arising therefrom on the basis of compromise/statements dated 03.11.2023, which is stated to have been effected between the parties.

2 On 07.10.2023, the following order was passed:

“1. Petitioners are seeking to quash the FIR bearing No.95 dated 02.09.2021, under Sections 498-A/406 IPC, registered at Police Station Kalanaur, District Gurdaspur on the basis of compromise as having been effected between the parties.

2. Learned counsel for the petitioners contend that at the first instance, FIR was registered against petitioner No.1 only. However, on conclusion of the investigation, the challan has been presented against all the petitioners. The marriage of petitioner

No.1 was solemnized with respondent No.2 about one and a half years prior to the registration of the FIR but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties. Annexure P-1 is the affidavit of respondent No.2 in this regard. Petitioner No.1 and respondent No.2 shall institute a petition under Section 13-B of Hindu Marriage Act for dissolution of marriage by mutual consent. The entire claim of respondent No.2 for permanent alimony and articles of Istri Dhan has been settled. Nothing is due payable by the petitioners to respondent No.2. No other case is pending between the parties.

3. Notice of motion.

4. Mr. Hittan Nehra, Addl. AG, Punjab accepts notice on behalf of the respondent-State.

5. Mr. Jaswinder Singh Rana, Advocate has put in appearance on behalf of respondent No.2 and filed power of attorney. He has acknowledged the fact of compromise.

6. The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 30.10.2023. 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.

7. 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.

8. To await the report, list again on 15.11.2023. ”

3. Pursuant to the aforesaid order, report dated 07.11.2023 from Judicial Magistrate, Ist Class, Gurdaspur has been received, which is taken on re. As per the report, the Trial Court has recorded as follows:-

“It is humbly further submitted as under:-

1) That, as per the statement of Investigation Officer, there are three accused persons namely Manbir Singh S/o Nirmal Singh, Nirmal Singh S/o Amar Singh and Paramjit Kaur W/o Nirmal Singh All R/o Village Faizlabad, Tehsil and District Gurdaspur, are arraigned as accused in present FIR.

2) That, as per the statement of Investigation Officer, none of the accused has been declared proclaimed offender.

3) That, in view of the statements of the parties it appears that the compromise is genuine, voluntary and without any coercion or under influence.

4) That, as per statement of Investigating Officer and accused persons, none of the accused are involved in any other case except this FIR.

5) That, as per the statement of Investigating officer, one Victim/Complainant namely Kiranpreet Kaur is there in FIR. Hence report is submitted for kind perusal of the Hon'ble High Court, please.”

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 is quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise/statements dated 03.11.2023.

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 wise 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.95 dated 02.09.2021 under Sections 498-A, 406 of IPC, registered at Police Station, Kalanaur, District Gurdaspur and all consequent proceedings arising therefrom on the basis of compromise/statements dated 03.11.2023, is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

16.01.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No