

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

294

CRM-M-51918-2023

Date of decision: 07.02.2024

Yatin Kumar and others

....Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arjun Sharma, Advocate for the petitioners.
Ms. Ankita Ahuja, AAG Haryana.
Mr. Manu Garg, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.154 dated 26.11.2019 under Sections 34, 354-A, 354-C, 406, 498-A, 506, 509, 120-B of IPC, registered at Police Station, Women West, Gurugram, District Gurugram, and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 26.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 15.12.2023, the following order was passed:

- “1. Petitioners are seeking to quash the FIR bearing No.154 dated 26.11.2019, under Sections 34/354-A/354-C/406/498-A/506/509/120-B IPC, 1860 registered at Police Station Women West, Gurugram, District Gurugram on the basis of compromise as having been effected between the parties.*
- 2. Ms. Manju Goyal, Advocate has put in appearance on behalf of respondent No.2 and filed Vakalatnama, which is taken on record.*
- 3. Learned counsel for the petitioners contend that the marriage of petitioner No.1 was solemnized with respondent No. 2 on 08.03.2019 but no child has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in the Delhi High Court,*

Mediation and Conciliation Center and Annexure P-2 is the Settlement Agreement. The petitioner No. 1 shall pay a sum of Rs.40 Lakhs to respondent No.2 on account of permanent alimony. The marriage of petitioner No.1 and respondent No.2 has been dissolved by a decree of divorce by mutual consent under Section 13-B of Hindu Marriage Act in terms of the judgment and decree dated 18.09.2023 passed by the learned Family Court, North District, Rohini Courts, Delhi. A sum of Rs. 27.5 Lakhs has already been paid and the balance amount of Rs. 12.5 Lakhs shall be paid to respondent No.2 when the statement of the parties is recorded with regard to the quashing of the FIR. Respondent No.2 has received all her articles of Istridhan and nothing else is due payable to her by the petitioner. Two separate petitions for quashing another FIR No. 2143 dated 02.11.2019 under Sections 323, 325, 354, 34, 506 IPC registered at Police Station Shivaji Nagar, District Gurugram and FIR No. 198 dated 16.06.2022 under Sections 406, 420 IPC registered at Police Station Sector 14, Gurugram on the basis of compromise have also been instituted.

4. Learned counsel for respondent No.2 has acknowledged the fact of compromise.

5. The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 08.01.2024. 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.

6. 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.*

7. To await the report, list again on 07.02.2024”

3. Pursuant to the aforesaid order, report dated 30.01.2024 from Civil Judge (Jr. Division)-cum-Judicial Magistrate First Class, Gurugram has

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

“Today the case was fixed for compromise in between the parties in compliance of Hon'ble Punjab & Haryana High Court vide order dated 15.12.2023, in CRM-M-51918-2023. Statement of L/HC Karuna Belt No. 160 has been recorded and the requisite report as under:

- i) Number of persons arraigned as accused in FIR:- Four*
- ii) Whether any accused is proclaimed offender: No (as per the statement recorded Investigating Officer of this case)*
- iii) Whether the compromise is genuine, voluntary and without any coercion of undue influence: Yes, the compromise is genuine (as per the statement recorded of the parties)*
- iv) Whether the accused persons are involved in any other case or not: No (as per the statement recorded Investigating Officer of this case)*
- v) The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in FIR:- One (as per the statement recorded Investigating Officer of this case)*

2. Complainant Sakshi Khurana & accused Yatin Kumar, Aastha, Ashok Kumar and Anjan @ Kamlesh were already examined. Further, the Investigating Officer of case L/HC Karuna Belt No. 160 has appeared and suffered a statement to the effect that no PO proceedings is pending against the accused persons in present case.

In accordance with the order CRM-M-51918-2023 of Hon'ble High Court dated 15.12.2023 the statements of the parties to case i.e. of complainant, accused persons and L/HC Karuna Belt No. 160 were recorded. The Court is satisfied that the compromise entered into between the parties to case is genuine without any coercion or undue influence. A copy of the statements recorded be forwarded to Hon'ble High Court through proper channel without any unnecessary delay. Now to come up on 16.02.2024 awaiting further directions from Hon'ble High Court.”

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.154 dated 26.11.2019 under Sections 34, 354-A, 354-C, 406, 498-A, 506, 509, 120-B of IPC, registered at Police Station, Women West, Gurugram, District Gurugram and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 27.09.2023 (Annexure P-2), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 07, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No