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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 12.02.2024

Yatin Kumar and others

...Petitioners

V/s

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arjun Sharma, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG Haryana

Ms. Manju Goyal, Advocaes for respondent Nos.2 and 3.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.2143 dated 02.11.2019 under Sections 323, 325, 354, 34, 506 of IPC, registered at Police Station, Shivaji Nagar, District Gurugram, and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 02.11.2019 (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 No.2143 dated 02.11.2019 under Sections 323/325/354/34/506 IPC, registered at Police Station Shivaji Nagar, District Gurugram on the basis of compromise as having been effected between the parties.

2. Learned counsel for the petitioners contend that as per the allegations, the petitioners had inflicted injuries on the person of respondent No.2. The present case is an offshoot of matrimonial dispute between the petitioner No.1 and respondent No.2. 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 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 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. 154 dated 26.11.2019 under Sections 34, 354-A, 354-C, 406, 498-A, 506, 509, 120-B IPC registered at Police Station, Women West, 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.

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

4. 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.

5. 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.*

To await the report, list again on 07.02.2024.”

3. Pursuant to the aforesaid order, report dated 19.01.2024 from Judicial Magistrate First Class, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In respect of the first, second, fourth and fifth information as sought by the Hon'ble High Court, it is humbly submitted that as per record and police report filed by the SHO concerned and Statement of Investigating Officer HC Surender, Belt No. 1299/GGM, posted at Police Station Shivaji Nagar, Gurugram, recorded separately, there is one complainant namely Sakshi Khurana and four accused namely Yatin, Kamlesh, Charanjeet and Kamlesh in the present case. Accused persons are not proclaimed offender in the present case. It is further submitted that accused Yatin, Ashok and Kamlesh are involved in another criminal case i.e. bearing FIR No. 154/2019 under Sections 120B, 354A, 406, 498A, 506, 509 354C & 34 of IPC, PS-Women West, Gurugram and accused Yatin is also involved in another criminal case i.e. FIR No. 198/2022 under Sections 406 & 420 of IPC, PS-Sector-14, Gurugram

In respect of information at point number three, it is submitted that in pursuance of order of the Hon'ble High Court complainant Sakshi Khurana and accused namely Yatin, Kamlesh, Charanjeet and Kamlesh have appeared before the Court on 08.01.2024, Complainant Sakshi Khurana, duly identified by her counsel, suffered a statement to the effect that she is complainant in the present case and compromise has been effected between the parties on 26.07.2023 before the Mediation and Conciliation Center of Hon'ble Delhi High Court with the intervention of respectable person. She has entered into the compromise voluntarily and the compromise has been effected between the parties amicably, without undue influence or coercion and he has no grievance against the accused. Copy of settlement agreement is dated 26.07.2023 is Ex. C-1.

Accused Yatin has also suffered separate statement to the effect that he is accused in the FIR no 2143 dated 02.11.2019, under Sections 323,354, 506, 325, 34 of IPC, Police Station Shivaji Nagar, Gurugram. The compromise has been effected between the parties on 26.07.2023 before the Mediation and Conciliation Center of Hon'ble Delhi High Court with the intervention of respectable person. He has entered into the compromise voluntarily and the compromise has been effected between the parties amicably, without undue influence or coercion. He further stated that he has not been declared Proclaimed Offender in any case. Two other criminal cases are also pending against him bearing FIR No. 154/2019 under Sections 120B, 354A, 406, 498A, 506, 509 354C & 34 of IPC, PS-Women West, Gurugram & FIR No. 198/2022 under Sections 406 & 420 of IPC, PS-Sector-14, Gurugram.

Accused Ashok has also suffered separate statement to the effect that he is accused in the FIR no 2143 dated 02.11.2019, under Sections 323,354, 506, 325, 34 of IPC, Police Station Shivaji Nagar, Gurugram. The compromise has been

effected between the parties on 26.07.2023 before the Mediation and Conciliation Center of Hon'ble Delhi High Court with the intervention of respectable person. He has entered into the compromise voluntarily and the compromise has been effected between the parties amicably, without undue influence or coercion. He further stated that he has not been declared Proclaimed Offender in the present case. One other criminal case is also pending against him bearing FIR No. 154/2019 under Sections 120B, 354A, 406, 498A, 506, 509 354C & 34 of IPC, PS-Women West, Gurugram.

Accused Kamlesh has also suffered separate statement to the effect that she is accused in the FIR no. 2143 dated 02.11.2019, under Sections 323,354, 506, 325, 34 of IPC, Police Station Shivaji Nagar, Gurugram. The compromise has been effected between the parties on 26.07.2023 before the Mediation and Conciliation Center of Hon'ble Delhi High Court with the intervention of respectable person. She has entered into the compromise voluntarily and the compromise has been effected between the parties amicably, without undue influence or coercion. She further stated that she has not been declared Proclaimed Offender in any case. One other criminal case is also pending against her bearing FIR No. 154/2019 under Sections 120B, 354A, 406, 498A, 506, 509 354C & 34 of IPC, PS-Women West, Gurugram.

Accused Charanjeet has also suffered separate statement to the effect that he is accused in the FIR no. 2143 dated 02.11.2019, under Sections 323,354, 506, 325, 34 of IPC, Police Station Shivaji Nagar, Gurugram. The compromise has been effected between the parties on 26.07.2023 before the Mediation and Conciliation Center of Hon'ble Delhi High Court with the intervention of respectable person. He has entered into the compromise voluntarily and the compromise has been effected between the parties amicably, without undue influence or coercion. He further stated that he has not been declared Proclaimed Offender in the present case.

Being satisfied that the statements were being voluntarily made, statements of both the parties were recorded on oath, wherein they have acknowledged of having entered into compromise.

It is submitted that HC Surender, Belt No. 1299/GGM, posted at Police Station Shivaji Nagar, Gurugram, has suffered separate statement to the effect that he is Investigating Officer of the present case bearing FIR no. 2143 dated 02.11.2019, under Sections 323,354, 506, 325, 34 of IPC, Police Station Shivaji Nagar, Gurugram. He further stated that there is one complainant namely Sakshi Khurana and there was four accused namely Yatin, Ashok, Charanjeet & Kamlesh in the present FIR. He further stated that challan has been filed against

the accused Yatin, Ashok, Charanjeet & Kamlesh. None of the accused is proclaimed officer in the present case. Accused Yatin, Ashok and Kamlesh are involved in another criminal case ie. bearing FIR No. 154/2019 under Sections 120B, 354A, 406, 498A, 506, 509 354C & 34 of IPC, PS-Women West, Gurugram and accused Yatin is also involved in an- other criminal case i.e. FIR No. 198/2022 under Sections 406 & 420 of IPC, PS-Sector-14, Gurugram.

In view of the statements of interested parties, this court is satisfied that the compromise has been arrived between the parties and the said compromise is genuine, voluntary and out of free will of the parties. Statement of the parties and Investigating Officer in original alongwith copy of compromise is Ex. C-1 are attached.”

4. Learned counsel for respondent Nos.2 & 3 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.

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(v) Complainant/victim is reported to have entered into compromise on his own volition.

9 Consequently, the petition is allowed. FIR No.2143 dated 02.11.2019 under Sections 323, 325, 354, 34, 506 of IPC, registered at Police Station, Shivaji Nagar, 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 12, 2024
Ajay

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