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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52464-2023 (O&M)

Date of Decision: 25.01.2024

YOGESH GOEL AND ANOTHER

.. Petitioners

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Surender Singh Pannu, Addl. A.G., Haryana.

Mr. Bakul Garg, Advocate for
Ms. Nancy Vashisth, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.484 dated 23.08.2022 registered under Sections 498-A, 406, 323, 506 of the Indian Penal Code, 1860 at Police Station Jagadhari City, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.10.2023 (Annexure P-2), which is stated to have been effected between the parties.
- 2 On 16.10.2023, the following order was passed:

“This is a petition under Section 482 Code of Criminal Procedure, 1973 for quashing of FIR No.484 dated 23.08.2022 registered under Sections 498-A, 406, 323, 506 of the Indian Penal Code, 1860 at Police Station Jagadhari City, District Yamuna Nagar, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 09.10.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter, which has been reduced into writing on 09.10.2023. As per the terms of the compromise, the parties have filed a petition under Section 13-B of the Hindu Marriage Act, 1955 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. Mahima Yashpal, DAG, Haryana, who is present in Court, accepts notice on behalf of respondent No.1-State.

Ms. Nancy Vashistha, Advocate has put in appearance on behalf of respondent No.2 and has filed her power of attorney, which is taken on record. She 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 09.10.2023.

List on 24.01.2024.

Meanwhile, the petitioner(s) and respondent No.2 shall appear before the concerned CJM/Illaq Magistrate/Trial Court on 04.12.2023, 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 09.10.2023 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 03.01.2024 from Id.

Addl. Chief Judicial Magistrate, Yamuna Nagar at Jagadhari, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"1. As per the statement of complainant, the matter between the complainant and accused has been compromised without any coercion. undue influence and pressure and there are only two accused namely Yogesh Goel and Surinder Kumar and she is only complainant and aggrieved party and she has no objection, in case the aforesaid FIR is cancelled/ quashed against the above said accused persons. In the similar manner, both the accused have given their statement that they have voluntarily compromised the matter with the complainant

without any coercion, undue influence and pressure and they are only accused and they have not been declared as proclaimed person/ absconder in the present case. From the statements of complainant and accused, it appears that the matter between both the parties has been compromised voluntarily, without any pressure of any kind, from any corner and the compromise, effected between them is genuine.

Hence, it seems that the statements of parties are bona fide, not the result of any fraud or misrepresentation and is the result of free Will of the parties and the compromise effected between them is genuine, voluntary and without any coercion, pressure or undue influence and is valid.

2. In the abovesaid FIR, HC Sangeeta, no. 1025/YNR, presently posted at PS-City Jagadhri had appeared and suffered a statement before this Court. As per her statement, he has brought the record/police file pertaining to abovesaid case and as per record, in the present FIR, there is only one accused namely Yogesh Goel and Surinder Kumar and complainant namely Nidhi is only aggrieved person and she is party to the present compromise and accused have not been declared as proclaimed offender/absconder in the present case and except the accused/Yogesh Goel and Surinder Singh and complainant/Nidhi, there is no other accused or aggrieved person in the present case.”

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 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.484 dated 23.08.2022 registered under Sections 498-A, 406, 323, 506 of the Indian Penal Code, 1860 at Police Station Jagadhari City, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.10.2023 (Annexure P-2), is, hereby, quashed qua the petitioners.

25.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No