

CRM-M-54128-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

283

CRM-M-54128-2023

Date of decision: 05.02.2024

Deepankar

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Surinder Thakur, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Nitin Verma, Advocate for
Mr. Manga Ram, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.236 dated 14.10.2020 under Sections 498-A and 406 of IPC, registered at Police Station, Model Town, District Hoshiarpur, Punjab and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 27.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 30.10.2023, the following order was passed:

“By way of the instant petition, the petitioner has sought the quashing of the FIR bearing No.236 dated 14.10.2020 registered at Police Station Model Town, District Hoshiarpur, Punjab, under Sections 498-A and 406 IPC, along-with all the subsequent proceedings arising therefrom, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the present case.

Learned counsel for the petitioner, inter-alia, contends that the subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2-complainant/wife but now, with the intervention of the respectables, the same

stands settled/resolved amicably and the said settlement/compromise would promote cordial, peaceful and harmonious relations between them.

Notice of motion.

Mr. Virat Rana, learned Assistant Advocate General, Punjab, who has appeared on behalf of respondent No.1 in this case in pursuance of the copy of the present petition having been sent to the respondent-State in advance, accepts the notice.

At this stage, Mr. Manga Ram, Advocate, has put in appearance on behalf of respondent No.2 and has submitted his Power of Attorney in the Court today and the same is taken on the record. He accepts the notice on behalf of his client and also admits the factum of the compromise having been arrived at between the parties.

Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 09.11.2023 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 05.02.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise;*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case;*
- 3. the name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings,*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed.

Learned counsel for the petitioner shall also place the copies of the judgment and decree, that may be passed by the concerned Family Court in the petition claimed to have been moved by the petitioner and respondent No.2 under Section 13-B of the Hindu Marriage Act, 1955, to seek the dissolution of their marriage, on the record on or before the date fixed.”

3. Pursuant to the aforesaid order, report dated 10.01.2024 from District and Sessions Judge, Hoshiarpur has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“Accordingly, in compliance of the aforesaid order the statement of Harpreet Kaur daughter of Amarjit Singh age 29 years resident of Singhriwala PS Model Town, District Hoshiarpur was recorded and she happens to be the complainant of the case. She has stated that her marriage was solemnized with the accused Deepankar son of Sh Duli Chand resident of House No.46 Jain Colony Block C Bhamian Khurd District Ludhiana. After marriage due to some differences they could not pull on their marriage life due to which she got registered the FIR No 236 dated 14.10.2020 under Section 498 A, 406 of IPC, PS Model Town against the petitioner/accused Deepankar that now with the interventions of the respectables and relatives a compromise dated 27.09.2023 has been arrived in between her and the petitioner with free will and consent and all the dispute has been sort out between her and the petitioner. The copy of compromise is Ex.A1 and copy of Adhaar Card is Ex A2. The compromise has been effected by her with the petitioner/accused without any pressure and coercion. She has effected the same with her free consent. She has no objection if on the basis of above said compromise the present FIR be quashed. She was identified through her counsel Sh. Varinder Hira, Advocate.

Thereafter statement of accused Deepanker was also recorded to the fact that his marriage was solemnized with the complainant Harpreet Kaur daughter of Amarjit Singh age 29 years resident of Singhriwala, PS Model Town, Hoshiarpur. After marriage due to some differences they could not pull on our marriage life due to which complainant/his wife got registered the FIR No.236 dated 14.10.2020 under Section 498A, 406 of IPC, PS Model Town against him only, that now with the interventions of the respectables and relatives a compromise dated 27.09.2023 has been arrived in between him and the complainant with free will and consent and all the dispute has been sort out between him and the complainant. The copy of compromise is Ex A1 and copy of Adhar Card is Ex.A3. The compromise has been effected by him with the complainant without any pressure and coercion. He has effected the same with his free consent. It is further stated that he has never been declared proclaimed person in this case and this FIR was registered against him only. Further stated that his wife/complainant is

only one person who is aggrieved no one other is aggrieved in this matter. No any other case is pending or registered against him till today except the present one. On the basis of the compromise the present FIR may kindly be quashed. He was also identified through his counsel Sh. Amandeep Saini, Advocate.

Thereafter the statement of Investigating Officer ASI Jasvir Singh was recorded to the effect that he is posted at PS Bullowal, Hoshiarpur and he is the Investigating Officer of FIR No.236 dated 14.10.2020 at PS Model Town, Hoshiarpur which was registered at the instance of Harpreet Kaur daughter of Amarjit Singh age 29 years resident of Singhriwala PS Model Town, District Hoshiarpur against Deepanker son of Duli Chand age 32 years resident of House No.46 Jain Colony, Block-C, Bhamian Khurd, District Ludhiana. As per the record of PS Model Town, Hoshiarpur no other case is pending against accused Deepanker. Accused was never declared as proclaimed offender/proclaimed person. Further the accused is not having any other FIR pending against him.

Pointwise information is submitted hereinafter:

- (i) that there is only one accused arraigned in the FIR i.e. Deepanker and he has appeared and made his statement qua the compromise;*
- (ii) there is no accused who is absconding or has been declared as PO/Proclaimed Person in this case;*
- (iii) the name of the complainant is Harpreet Kaur daughter of Amarjit Singh age 29 years resident of Singhriwala PS Model Town, District Hoshiarpur and she is the sole complainant/victim and she has made statement in the favour of compromise,*
- (iv) the stage of proceedings: the present stage of proceeding is consideration on application moved under Section 319 CrPC;*
- (v) from the statements of the complainant and accused and perusal of compromise Ex.A1 shows that the parties have entered into a compromise voluntarily and the same is genuine*
- (vi) As per the statement of the Investigating Officer there is no other criminal case pending against accused Deepanker. ”*

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.236 dated 14.10.2020 under Sections 498-A and 406 of IPC, registered at Police Station, Model Town, District Hoshiarpur, Punjab and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 27.09.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 05, 2024
Ajay

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