

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58309-2022 (O&M)
Date of Decision: 16.02.2024

Parneet Singh and another
Vs.

.. Petitioners

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Renu, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Prabhjot Singh Waraich, Advocate
for respondents No.2 and 3.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.03 dated 05.01.2021 under Sections 406, 498-A, 34 and 201 IPC registered at Police Station Payal, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 22.07.2022 (Annexure P-3), which is stated to have been effected between the parties.

2 On 15.12.2022, the following order was passed:

“The petitioners have filed the present petition seeking quashing of FIR No.03 dated 05.01.2021 under Sections 406, 498-A, 34 and 201 IPC registered at Police Station Payal, District Ludhiana and all consequential proceedings arising therefrom on the basis of the compromise dated 22.07.2022 (Annexure P-3).

Learned counsel for the petitioners has submitted that after registration of the FIR, with the intervention of the repectables, the parties have settled the dispute amicably. She submits that the parties have also agreed to file petition under Section 13-B of the Hindu Marriage Act, 1955 for dissolving their marriage by way of mutual consent. She submits that as the petitioner would file

petition under Section 13-B of the Hindu Marriage Act, 1955, prosecution of the petitioners in the present case is nothing but an abuse of the process of the Court.

Notice of motion.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab accepts notice on behalf of respondent No.1 and Mr. Prabhjot Singh, Advocate, accepts notice on behalf of respondents No.2 and 3.

Learned counsel for respondents No.2 and 3 has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties. He further submits that respondent No.3 is also ready to file petition for dissolving marriage by mutual consent.

Adjourned to 12.04.2023.

Let the State file status report.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 16.01.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It shall also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

Petitioner No.2 and respondent No.3 are allowed to record their statements through virtual mode.

The learned Magistrate is directed to ensure the proper identification of petitioner No.2 and respondent No.3 by their counsel or some respectable person.

The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 05.04.2023 from Id. Sub Divisional Judicial Magistrate, Payal, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Parties have stated that they have compromised the matter with each other and compromise is genuine and voluntarily. Statement of Investigating Officer namely ASI Mukhtiar Singh no.101/K posted at P.S.City Khanna was also recorded.

In view of the statement of the parties, I am of the view that compromise has been effected between the parties voluntarily and without any misrepresentation, coercion and un due influence from any quarter. As per the statement of Investigating Officer, FIR

no.03/05.01.2021 under sections 406, 498-A, 34,201 IPC, Police Station Payal was registered against two accused persons namely Parneet Singh Sidhu and Harjot Kaur @ Jot by complainant Gurbachan Singh son of Surjit Singh resident of village Jandali, Police Station Payal. As per the statement of investigating officer, there is no other accused besides the above mentioned accused persons. As per the statement of investigating officer, one FIR bearing no.11/15.02.2018 under sections 323, 341, 506, 34 IPC, P.S. Bhadson, District Patiala was registered against Parneet Singh Sidhu but in the said case cancellation was filed and which has been accepted by the court on 13.7.2019. As per the statement of investigating officer, presently no other FIR is pending against any accused persons and parties are not involved or declared proclaimed offender in any other criminal case or in the present case. So, in view of the statement of investigating officer, there are only two accused in the present case. No accused is declared as proclaimed offender in the present case. Furthermore, parties are not involved in any other case or have not been declared proclaimed offender in any other case.”

4. Learned counsel for respondent Nos.2 and 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-3).

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.03 dated 05.01.2021 under Sections 406, 498-A, 34 and 201 IPC registered at Police Station Payal, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit 22.07.2022 (Annexure P-3), are, hereby, quashed qua the petitioners.

10. The parties shall remain bound by the terms of the settlement arrived at between the parties.

11. Liberty is reserved in favour of the parties to seek recall of this order, in case the terms of the settlement are violated.

16.02.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No