

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-57712 of 2023

DATE OF DECISION :- 26.02.2024

Harvinder Singh and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sumit Sangwan, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Vikrant Rana, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 100 dated 21.11.2022 under Sections 323,34,377,406,498-A of IPC (Section 377 of IPC deleted during investigation), registered at Women Police Station, Charkhi Dadri, District Charkhi Dadri and all consequential proceedings arising therefrom on the basis of compromise dated 06.11.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 16.11.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.100 dated 21.11.2022 (Annexure P-1) under Sections 323, 34, 377, 406, 498-A of the Indian Penal Code, 1860 (Section 377 IPC deleted during investigation) registered at Women Police Station Charkhi Dadri, District Charkhi Dadri, along with all the subsequent proceedings arising therefrom, on the basis of a compromise dated 06.11.2023 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners would contend that the parties have since resolved all their disputes and entered into a compromise and agreed to part ways. A petition under Section 13-B of Hindu Marriage Act, 1955 would be filed shortly. Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered in "Gian Singh Vs. 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.

On the asking of the Court, Ms. Mahima Yashpal, DAG Haryana accepts notice on behalf of respondent No.1-State. Mr. Vikrant Rana, Advocate accepts notice for complainant-respondent No.2. Copy of the petition has already been supplied to both the counsel."

3. Pursuant to the aforesaid order, report dated 03.01.2024 from Judicial Magistrate Ist Class, Charkhi Dadri has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"(1) Whether the settlement/compromise dated 06.11.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

Keeping in view the voluntary statements of complainant party and the accused, the settlement/compromise dated 06.11.2023 seems to be freely entered into between the parties without any undue influence, coercion or pressure of any kind.

(ii) Whether any other criminal cases are pending against the parties.

As per statement of L/ASI Poonam no.14 DDR, the Investigating Officer, the accused Harvinder son of Devender is also involved in one more case bearing FIR no.485 dated 28.05.2018, under sections 42A, 45 of Prisoners Act and 22 (b) of NDPS Act, Police Station Jhajjar and the challan has already

been submitted in the court on 25.07.2018. No other case has been registered against accused Sunita. No case is pending against the complainant as per record of Police Station, Charkhi Dadri.

(iii) Whether any proclamation proceedings are pending against either of the parties.

As per judicial file and statement of L/ASI Poonam no.14 DDR, the Investigating Officer, no proclamation proceedings are pending against either of the parties.

Submitted, please.”

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 is 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 of 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. 100 dated 21.11.2022 under Sections 323,34,377,406,498-A of IPC (Section 377 of IPC deleted during investigation), registered at Women Police Station, Charkhi Dadri, District Charkhi Dadri and all consequential proceedings arising therefrom on the basis of compromise dated 06.11.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

26.02.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No