

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

311

CRM-M-64793-2023 (O&M)
Date of decision: 09.05.2024

SURESH

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Sanjeev Majra, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Shivek Thakur, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J.

[1] The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 190 dated 29.12.2021, registered at Police Station Women West, District Gurugram, under Sections 377, 406, 498-A and 506 of the IPC read with Section 34 thereof (Sections 354-A, 509, 377 and 376-D of the IPC were added later but Sections 377, 354-A and 376-D read with Section 34 thereof were deleted later on), on the basis of a compromise deed dated 12.12.2023 (Annexure P-2) between the parties.

[2] On 31.01.2024, following order was passed by this Court:-

“1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 190 dated 29.12.2021, registered at Police Station Women West, District Gurugram, under Sections 377, 406, 498-A and 506 of the IPC read with Section 34 thereof (Sections 354-A, 509, 377 and 376-D of the IPC were added later but Sections 377, 354-A and 376-D read with Section 34 thereof were deleted later on), on the basis of a compromise dated 12.12.2023 (Annexure P-2) between the parties.

2. Counsel for the petitioner *inter alia* contends that the FIR was registered at the instance of respondent No. 2-complainant who is the wife of the present petitioner. A copy of the compromise dated 12.12.2023 (Annexure P-2) executed between the parties has been annexed herewith. They have decided to live separately. A joint petition under Section 13-B of the Hindu Marriage Act, 1955, had already been filed by the parties wherein a decree of divorce has now been granted by the Family Court, Gurugram, on 25.01.2024. A copy of the said judgment has also been supplied in Court today by learned counsel for the petitioner. The same is taken on record.

3. Notice of motion.

4. Having received advance copy of the petition, Ms. Himani Arora, A.A.G., Punjab, accepts notice on behalf of respondent No. 1-State.

5. A status report by way of an affidavit of Sh. Surinder Kaur, Assistant Commissioner of Police, CAW West & Manesar, Gurugram, has already been filed by learned State counsel. The same is taken on record.

6. Learned State counsel confirms that during the investigation the offences punishable under Sections 376 (D), 254 (A), 377 and 509 of the IPC read with Section 34 thereof were not found and these charges were dropped. The final report under Section 173 Cr.P.C. dated 07.03.2022 was presented before the Court of competent jurisdiction against the petitioner which is pending for recording of the prosecution evidence.

7. Mr. Shivek Thakur, Advocate, accepts notice on behalf of respondent No. 2 and filed his power of attorney in Court today, which is taken on record and he confirms about factum of compromise between the parties, as well as receiving of a sum of ₹11,00,000/- towards full and final settlement qua past, present and future permanent alimony.

8. Copies of the petition be handed over to learned counsel for the respondents during the course of the day.

9. Adjourned to 20.03.2024.

10. The parties are directed to appear before the trial Court/Illaq Magistrate up-to 21.02.2024 for recording of their statements. After recording the statements of all the accused, victim, complainant and injured if any, the trial Court/Illaq Magistrate shall send a report to this Court on the following facts well before the next date of hearing:-

I. Whether a genuine compromise has been arrived at between all the affected parties

II. Whether the complainant, all the injured/victim and all

the accused are party to the compromise?

III Whether during investigation, any additional accused has been added and he/she is a party to the compromise?

IV Whether any accused is a Proclaimed Offender?

V Whether after the registration of the FIR any offence was added or deleted during investigation?

VI Whether investigation is pending against any of the accused or any accused has been declared as innocent.”

[3] Learned counsel appearing on behalf of respondent No.2 has confirmed the factum of compromise between the parties.

[4] Learned State counsel has not raised any objection regarding the acceptance of the present petition. He has informed that though 8 persons were named as accused but during the investigation, 7 persons were declared as innocent and challan was presented only against the present petitioner.

[5] On 31.01.2024, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise.

[6] As per the report dated 23.02.2024 received from the Judicial Magistrate 1st Class, Gurugram forwarded through the office of District and Sessions Judge, Gurugram, compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. Petitioner has not been declared as ‘Proclaimed Offender’.

[7] Keeping in view the fact that the compromise between the parties is genuine and voluntarily made and in view of the ratio of the decision of Hon'ble Apex Court in **Gian Singh Versus State of Punjab (SC) 2012 (4) RCR (Criminal) 543** and the decision of Hon'ble the Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and others 2007 (3) RCR (Criminal) 1052**, the ends of justice would meet if the FIR and consequential proceedings are quashed by accepting the compromise between the parties.

[8] Consequently, this petition is allowed and FIR No. 190 dated 29.12.2021, registered at Police Station Women West, District Gurugram, under Sections 377, 406, 498-A and 506 of the IPC read with Section 34 thereof (Sections 354-A, 509, 377 and 376-D of the IPC were added later but Sections 377, 354-A and 376-D read with Section 34 thereof were deleted later on) (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

[9] However, the respondent No.2 and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise (Annexure P-2) are violated.

[10] Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

09.05.2024
P.Bhatt

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