

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMMO No. 819 of 2024

Date of Decision: 30.8.2024

Smt. Chandini Vij and Anr.

.....**Petitioners**

Versus

State of Himachal Pradesh and Anr.

.....**Respondents**

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioners: Mr. Ashok Sood, Senior Advocate with Mr. Khem Raj, Advocate.

For the Respondents: Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C. Verma, Additional Advocates General with Mr. Ravi Chauhan, Deputy Advocate General, for the State.

Mr. Ajay Kochhar, Senior Advocate with Mr. Anirudh Kapoor, Advocate, for respondent No.2.

Sandeep Sharma, J. (Oral)

By way of present petition, prayer has been made by the petitioners-accused for quashing of FIR No. 226 of 2023, dated 12.10.2023, registered at Police Station West, Shimla, District Shimla, H.P., under Sections 341, 504 and 506 and Section 34 of IPC, alongwith consequential proceedings pending in the competent court of law, on the basis of compromise.

2. Precisely, the case of the petitioners, as emerge from the pleadings, is that the FIR sought to be quashed in the instant proceedings came to be lodged at the behest of the respondent-complainant namely Lt. Col. Devender Kumar Sharma, alleging therein that he as well as other family members are facing litigation with respect to family dispute with his daughter-in-law and her family members i.e. petitioners, in the different courts at Shimla. He alleged that on 12.10.2023, while he had come to attend the court case and matter was adjourned on his request on account of illness of his son, petitioners not only hurled abuses in the court, but also extended threats to do away with his life. He further alleged that while he was leaving the court premises, both the accused extended threats that in case he as well as his family members do not succumb to their demands, they would teach them lesson. In the aforesaid background, FIR sought to be quashed came to be instituted against the petitioners.

3. Though after completion of investigation, police has presented challan in the competent court of law, but before same could be taken to its logical end, parties entered into compromise, whereby they have resolved to settle their dispute amicably inter-se them.

4. Averments contained in the petition as well as other material adduced on record reveals that petitioner No.1 had also lodged FIR No. 23

of 2021 dated 6.12.2021, under Sections 491-A & 34 of Indian Penal Code, registered at WPS BCS, Himachal Pradesh, against respondent No.2 and his family members, but before same could be taken to its logical end, parties entered into compromise. Respondent No.2 by way of CrMMO No. 1260 of 2022, approached this Court under Section 482 CrPC for quashing of aforesaid FIR, but this Court having regard to the nature of dispute inter-se parties, made an attempt to bring out settlement inter-se parties. In the aforesaid proceedings, parties were able to settle their dispute amicably, whereby petitioner No.1 Smt. Chandini Vij and person namely Winnie Sharma i.e. respondent No.3 in CrMMO No. 1260 of 2022, resolved to get their marriage dissolved by way of mutual consent by way of filing application under Section 13 B of the Hindu Marriage Act. Apart from above, person namely Sh. Winnie Sharma also agreed to pay sum of Rs. 1,00,00,000/- (Rupees One Crore only), in lump sum to respondent No.1 Chandini Vij and her minor daughter.

5. In the afore proceedings, parties categorically stated before this court, rather such fact stands reduced into compromise, which has been made part of the judgment dated 6.8.2024, passed in CrMMO No. 1260 of 2022 that on account of amicable settlement inter-se parties, they shall withdraw all the cases, be it civil or criminal, registered against each other.

6. Respondent No.2 herein in aforesaid proceedings categorically deposed on oath before this Court that he shall have no objection in case FIR No. 226 of 2023 under Sections 341, 504, 506 and 34 of IPC, registered at PS Shimla West, Himachal Pradesh alongwith consequent proceedings are closed. In the aforesaid background, petitioners have approached this Court in the instant proceedings for quashing of aforesaid FIR No/226 of 2023 alongwith consequent proceedings.

7. Mr. Ashok Sood, learned Senior counsel appearing for the petitioner while making this Court peruse record of CrMMO No. 1260 of 2022, wherein statement of respondent No.2 stands recorded, states that on account of amicable settlement inter-se parties, FIR sought to be quashed may also be quashed alongwith consequent proceedings.

8. Mr. Anirudh Kapoor, learned counsel for respondent No.2 while fairly acknowledging factum with regard to compromise in CrMMO No. 1260 of 2022, states that respondent No.2 shall have no objection in case prayer made in the instant proceedings for quashing of FIR is accepted and accused are acquitted of the charges framed against them. He states that since respondent No.2 has already stated on oath in CrMMO No. 1260 of 2022 that he shall have no objection in quashing the FIR in question alongwith the consequent proceedings, there is no need for recording the

statement of respondent No.2 again, rather on the basis of statement given by respondent No.2 in CrMMO No. 1260 of 2022, this Court may proceed to quash the FIR sought to be quashed in the instant proceedings.

9. Mr. Rajan Kahol, learned Additional Advocate General, who was otherwise present at the time of passing of judgment in CrMMO No. 1260 of 2022, clearly states that since respondent No.2 has already stated on oath before this court in CrMMO No. 1260 of 2022 that he shall have no objection in case FIR No. 226 of 2023, dated 12.10.2023, registered at Police Station West, Shimla, District Shimla, H.P., under Sections 341, 504 and 506 and Section 34 of IPC, alongwith consequential proceedings, is quashed, respondent-State shall have no objection in accepting the prayer made in the instant application.

10. The question which now needs consideration is whether FIR in question can be ordered to be quashed when Hon'ble Apex Court in **Narinder Singh and others versus State of Punjab and another** (2014)6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

11. At this stage, it would be relevant to take note of the judgment passed by Hon'ble Apex Court in **Narinder Singh** (supra), whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash criminal proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

12. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Apart from this, offences committed under special statute like the

Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves.

13. The Hon'ble Apex Court in ***Gian Singh v. State of Punjab and anr. (2012) 10 SCC 303*** has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is distinct and different from the power of a Criminal Court for compounding offences under Section 320 Cr.PC. Even in the judgment passed in **Narinder Singh's** case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.PC the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in **Dimpey Gujral and Ors. vs. Union Territory through Administrator, UT, Chandigarh and Ors.** (2013(11 SCC 497 has further reiterated that

continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

14. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and Another**, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016, reiterated the principles/ parameters laid down in **Narinder Singh's** case supra for accepting the settlement and quashing the proceedings.

15. Since parties have compromised the matter with each other and respondents No.2, at whose instance FIR sought to be quashed in the instant proceedings came to be lodged, is no more interested in pursuing the criminal prosecution of the petitioners, this court sees no impediment in accepting the prayer made on behalf of the petitioners for quashing of the FIR alongwith all consequential proceedings.

16. In the case at hand also, offences alleged to have been committed by the petitioners do not involve offences of moral turpitude or any grave/heinous crime, rather same are petty offences, as such, this

Court deems it appropriate to quash the FIR as well as consequential proceedings thereto, especially keeping in view the fact that the petitioners and the complainant have compromised the matter *inter-se* them, in which case, possibility of conviction is remote/bleak and no fruitful purpose would be served in continuing with the criminal proceedings.

17. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No. 226 of 2023, dated 12.10.2023, registered at Police Station West, Shimla, District Shimla, H.P., under Sections 341, 504 and 506 and Section 34 of IPC, alongwith consequential proceedings is quashed and set aside. Accused are acquitted of the charges framed against them. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

August 30, 2024

(manjit)

**(Sandeep Sharma),
Judge**