

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-49241-2021

Date of Decision: March 08, 2022

Vishesh Pathak

.... *Petitioner*

Versus

State of Punjab and another

... *Respondents*

CORAM: HON'BLE MR.JUSTICE VIVEK PURI

Present: Mr. Amit Dhawan, Advocate,
for the petitioner.

Ms. Ruchika Sabarwal, AAG, Punjab

Ms. Nritika Verma, Advocate,
for respondent no.2.

-. -

Vivek Puri, J.

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short ('Cr.P.C.)) invoking its inherent jurisdiction for quashing of F.I.R. No. 40 dated 19.02.2015, registered under Sections 294, 506, 509 IPC (Section 354-A IPC was added later on) at Police Station Division No. 5, Jalandhar, as well as, judgment dated 14.11.2019 passed by the learned Judicial Magistrate 1st Class, Jalandhar vide which the petitioner has been

convicted and sentenced, on the basis of compromise dated 20.08.2021 (Annexure P-4).

Precisely, the case has been registered on the allegation that on 16.02.2015 at about 8.00 PM, the complainant-respondent no.2 was coming from the market and proceeding towards her house. The petitioner started indulging in illegal activity with her in the street and threatened to kill her. Consequently, the aforesaid FIR was registered. The petitioner has been convicted under Sections 354-A, 294, 506 and 509 IPC in terms of the judgment dated 14.11.2019 and sentenced as following:-

<i>Convicted U/s</i>	<i>Sentence</i>
<i>354-A of IPC</i>	<i>Rigorous imprisonment for 01 year and fine of Rs. 500/-. In default thereof to undergo further imprisonment for one month.</i>
<i>294 of IPC</i>	<i>Rigorous imprisonment for 03 months and fine of Rs. 500/-. In default thereof to undergo further imprisonment for 07 days.</i>
<i>506 of IPC</i>	<i>Rigorous imprisonment for 01 month.</i>
<i>509 of IPC</i>	<i>Rigorous imprisonment for 01 month.</i>

Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioner has preferred a criminal appeal which is now pending in the court of learned Additional Sessions Judge, Jalandhar.

Notice of motion was issued on 24.11.2021 and following order was passed:-

“The petitioner is seeking quashing of FIR No. 40 dated 19.02.2015 and judgment dated 14.11.2019 passed by learned Judicial Magistrate 1st Class, Jalandhar, vide which he has been convicted, on the basis of the compromise dated 20.08.2021 (Annexure P-4). The petitioner has been convicted under Sections 354-A, 294, 506 and 509 IPC and sentenced to undergo rigorous imprisonment for a period of one year.

It has been stated that the matter has been amicably settled in terms of the compromise dated 20.08.2021 (Annexure P-4) and the appeal is pending in the Court of learned Additional Session Judge, Jalandhar.

Notice of motion.

Ms. Ruchika Sabarwal, AAG, Punjab, accepts notice on behalf of respondent No.1 and Ms. Nritika Verma, Advocate, has put in appearance on behalf of respondent No.2 and has acknowledged the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 20.01.2022 . It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused in FIR;*
- 2. Whether any accused is proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

4. *Whether the accused persons are involved in any other case or not.*

5. *The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

To await the report, list again on 03.03.2022.”

In compliance of the order dated 24.11.2021, both the parties have appeared before the learned Judicial Magistrate 1st Class, Jalandhar and got their statements recorded. It may be mentioned here that in the report the name of the complainant has been mentioned, but the same is not being reproduced in the judgment and is being referred to as 'complainant'. The learned Judicial Magistrate after recording the statements of the parties, has sent the report dated 09.02.2022, which is reproduced as following:-

“It is respectfully submitted that in compliance to directions given by the Hon'ble Punjab and Haryana High Court vide its order dated 24.11.2021 passed in CRM-M-49241-2021 the statements of parties were recorded on 20.01.2022 and statement of ASI Rashpal Singh No. 2085, posted at P.S. Division No.5, Jalandhar recorded today i.e. 08.02.2022.

Complainant suffered a statement to the effect that a case FIR No. 40 dated 19.02.2015, under Sections 294, 506, 509 IPC (later on added 354-A of IPC) was lodged with the Police Station Division No.5, Jalandhar on the basis of her complaint against accused namely Vishesh Pathak. A compromise has been effected with the accused voluntarily without any pressure, threat or coercion with her own Will. Copy of compromise is Ex.C1. In order to prove her identity, she has placed on record photocopy of her Aadhar Card as Ex.C2 (original seen and returned).

She has also pasted her photograph on her statement. Complainant is also identified by Sh. Naresh Kumar, Advocate. That she has no objection if the above said FIR be quashed.

Accused Vishesh Pathak also suffered separate statement to the effect that a case FIR No. 40 dated 19.02.2015, under Section 294, 506, 509 IPC (later on added 354-A of IPC) was lodged with the Police Station Division No.5, Jalandhar against him on the basis of complaint made by the complainant. A compromise has been effected with the complainant voluntarily without any pressure, threat or coercion with his own Will. Copy of compromise is Ex.C1. In order to prove his identity, he has placed on record photocopy of his Aadhar Card as Ex.C3 (original seen and returned). He has also pasted his photograph on his statement. Accused is also identified by Sh. B.B. Sekhri, Advocate. That the above said FIR may kindly be quashed.

In view of statements given by parties following report is hereby submitted as desired by your good self:-

- 1. It is respectfully submitted that as per the statement of ASI Rashpal Singh, there is only one accused in the present case namely Vishesh Pathak.*
- 2. It is further respectfully submitted that as per the statement of ASI Rashpal Singh, accused has not been declared as proclaimed person/proclaimed offender in this FIR till today.*
- 3. It is further respectfully submitted that in view of statements given by the parties this Court is of the considered opinion that compromise effected between the parties is genuine and it is effected voluntarily without any pressure, coercion or undue influence from any quarter.*

4. *It is further respectfully submitted that as per statement of ASI Rashpal Singh accused arrayed in this FIR has not been involved in any other FIR.*

5. *It is further respectfully submitted that as per the statement of ASI Rashpal Singh, there is only one complainant/victim in the present FIR.”*

After hearing the learned counsel for the parties and going through record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at an out of the Court settlement by way of compromise (Annexure P-4). The compromise is genuine one and has been voluntarily executed by the parties without any pressure or undue influence.

For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6)SCC 466**.

In the decision rendered in ***Sube Singh and another Vs. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102***, the Division Bench of this Court has laid down as following:-

“17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under

Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

Furthermore, in the recent decision rendered in ***Ramgopal and another Vs. State of Madhya Pradesh, Criminal Appeal No. 1489 of 2012, decided on 29.09.2021***, it has been held by the Supreme Court that non compoundable criminal cases of pre-dominantly private nature can be quashed under Section 482 Cr.P.C. even if compromise is reached after conviction.

The parties are stated to be residing in the neighbourhood and the matter has been amicably settled with the intervention of respectables and relatives. In such circumstances, the compromise will go a long way in maintaining cordial and harmonious relations between the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, F.I.R. No. 40 dated 19.02.2015, registered under Sections 294, 506, 509 IPC (Section 354-A IPC was added later on) at Police Station Division No. 5, Jalandhar, on the basis of compromise dated 20.08.2021 (Annexure P-4) effected between the parties, is ordered to be quashed, as well as, the judgment of conviction and order of sentence dated 14.11.2019 passed by the learned Judicial Magistrate 1st Class, Jalandhar are set aside. The petitioner is acquitted and fine, if any, deposited be refunded. Furthermore, the appeal preferred by the petitioner

against the judgment of conviction and order of sentence dated 14.11.2019 would be rendered infructuous and shall be so declared by the learned Additional Sessions Judge where the appeal is pending.

Resultantly, with the above-said observations made, the instant petition stands allowed.

March 08, 2022
vkd

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : *Yes*
Whether reportable : *Yes*