

CRM-M-1496-20241

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

286CRM-M-1496-2024

Date of decision: 20.02.2024

Manavbir Singh and others

...Petitioners

V/s

State of Punjab and another

...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bikramjit Singh Bajwa, Advocate for the petitioners.
Mr. Yuvraj Singh, AAG Punjab.
Mr. Vipin Mahajan, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

À demand-draft bearing No.010902 dated 13.02.2024 for a sum of Rs.7,50,000/- has been handed-over by learned counsel for the petitioners to learned counsel for respondent No.2 in Court today. Xerox copy thereof be kept on record for future reference.

1. By way of present petition, the petitioners are seeking quashing of FIR No.39 dated 06.05.2023 under Sections 498-A and 406 of IPC, registered at Police Station, Qadian, District Gurdaspur, and all consequent proceedings arising therefrom on the basis of compromise deed dated 07.12.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 11.01.2024, the following order was passed:

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion.

At this stage, Mr. Adhiraj Singh, AAG, Punjab, has put in appearance on behalf of respondent No 1 State of Punjab and accepts notice.

Ms. Chandanpreet Kaur, Advocate appearing for Mr. Vipin Mahajan, Advocate has filed vakalatnama for respondent No. 2. The same be taken on record.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner.

(i) The petitioners shall appear before the trial Court/Ilaqa Magistrate concerned on 16.01.2024 or any date thereafter as fixed by trial Court/Ilaqa Magistrate for recording statement of the petitioners as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Ilaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Ilaqa Magistrate to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Ilaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Ilaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Ilaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Ilaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Ilaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

- (i) Whether there is any other accused other than the petitioners, arrayed in this petition.*
- (ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.*
- (iii) Whether any accused has been declared Proclaimed Offender?*

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The report be submitted before this Court before the next date of hearing i.e. 20.02.2024”

3. Pursuant to the aforesaid order, report dated 08.02.2024 from Judicial Magistrate Ist Class, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. I have the honour to submit that vide order dated 11.01.2024 of Hon'ble Punjab and Haryana High Court, both the parties were directed to appear before this court on 16.01.2024 for recording their staternents with regard to compromise and on the said date parties appeared before the court for recording their statements and parties were directed to appear before the court on the date fixed. On 16.01.2024, parties appeared before this court for recording their statements with regard to compromise, In pursuance of above said order. Accordingly, in view of order dated 11.01.2024, statements of complainant and accused persons were recorded on 16.01.2024 itself.

2. Complainant/respondent no. 4 Supreet Kaur Bajwa daughter of Sherjasjit Singh Bajwa resident of House no. 112/08, Gurbaksh Nagar, Dera Baba Nanak Road, Gurdaspur, Tehsil & District Gurdaspur has got recorded her statement to the effect that FIR bearing no. 39 dated 06.05.2023 under section 498-A, 406 IPC, Police Station Qadian, District Gurdaspur was registered against accused three persons namely Manavbir Singh son of Jasbir Singh, Jasbir Singh son of Swaran Singh and Hardavinder Kaur wife of Jasbir Singh, all residents of Ward no. 11, Ranjit Nagar, Opposite ITI, post office Qadian, Tehsil Batala, District Gurdaspur on her statement. She has further stated that she has compromised with accused above named in the present case with her own free consent and without any pressure or coercion with the intervention of the respectables vide compromise deed. Original of said compromise deed dated 07.12.2023 is attached with petition filed before Hon'ble High Court. She has stated that this compromise is not having any adverse effect the rights of any third party She has placed on record his Aadhar Card as Ex. C1 and was also identified by her counsel Sh. Manjit Singh Samra, Advocate.

3. Similarly, accused/petitioners no. 1 to 3 namely Manavbir Singh son of Jasbir Singh, Jasbir Singh son of Swaran Singh and Hardavinder Kaur wife of Jasbir Singh have also got recorded their separate statement to the effect that they have effected compromise with complainant in the present case with his own free consent and without any pressure or coercion. They have requested that the aforementioned FIR lodged on the statement of complainant be quashed against them. They have further submitted that they have not been declared as Proclaimed person/offender by any court. They have stated that this compromise is not having

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any adverse effect the rights of any third party. They have been duly identified by their counsel Sh. Raghbir Singh Bajwa, Advocate and has also placed on record their Aadhar Cards as Ex. C2 to Ex. C4.

4 It is further submitted that separate statement of ASI Parminder Singh No.2181/BTL, posted at P.S. Qadian, investigating officer also recorded, who has stated that FIR bearing no. 39 dated 06.05.2023 under section 498- A/406 IPC, Police Station Qadian, District Gurdaspur has been registered on the statement of complainant/respondent no. 2 Supreet Kaur Bajwa daughter of Sherjasjit Singh Bajwa, resident of House No. 112/08, Gurbaksh Nagar, Dera Baba Nanak, Road, Gurdaspur, Tehsil and District Gurdaspur against three persons namely three persons namely Manavbir Singh son of Jasbir Singh, Jasbir Singh son of Sawran Singh and Hardavinder Kaur wife of Jasbir Singh, all residents of Wrad No. 11, Ranjit Nagar, Opposite ITI, Qadian post office, Qadian, Tehsil Batala, District Gurdaspur. None of the accused has been declared proclaimed person in the present FIR. None of the accused has been declared proclaimed person in the present FIR No any other FIR or complaint is pending against above named accused persons at P.S. Qadian.

5. In compliance to the aforesaid order dated 11.01.2024 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted that the point-wise report of undersigned is as follows:-

- i. It is submitted that as per statement of investigating officer the present FIR has been registered against three persons namely namely JManavbir Singh son of Jasbir Singh, Jasbir Singh son of Sawran Singh and Hardavinder Kaur wife of Jasbir Singh, i.e. petitioners no. 1 to 3.*
 - ii. It is further submitted as per statement of investigating officer there are only one complainant/respondent in the present FIR.*
 - iii. None of the accused has been declared as proclaimed person/offender in the present case.*
- 6. As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself.”*

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 petitioner are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

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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.

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(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.39 dated 06.05.2023 under Sections 498-A and 406 of IPC, registered at Police Station, Qadian, District Gurdaspur and all consequent proceedings arising therefrom on the basis of compromise-deed dated 07.12.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 20, 2024
Ajay

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