

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

CRM-M-1118 of 2023 (O&M)

DATE OF DECISION :- 21.02.2024

Raju and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. S.S. Kang, Advocate for the petitioners.

SUMEET GOEL, J. (Oral)

CRM-7733 of 2024

Notice of the application.

At the asking of the Court, Mr. Anup Singh, AAG, Punjab accepts notice for respondent No. 1-State of Punjab.

Mr. Siddharth Bhukkal, Advocate has appeared and accepts notice for respondent No. 2.

For the reasons mentioned in the application, as also in view of the submissions made by learned counsel for the petitioner, the application is allowed and the order dated 01.02.2024 passed earlier by this Court is recalled.

The main case is directed to be restored to its original number and status.

CRM-M-1118 of 2023

With the consent of the learned counsel for the parties, the main case is taken up for hearing today itself.

1. By way of present petition, the petitioners are seeking quashing of FIR No. 0073 dated 16.12.2020 under Sections 406 and 498-A of IPC, registered at Police Station Women, Police Commissionerate, Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 07.10.2022 (Annexure P-2), which is stated to have been effected between the parties.

2. On 10.01.2023, the following order was passed:

“The petitioners have filed petition under Section 482 Cr.P.C. for quashing of FIR No.0073 dated 16.12.2020 under Sections 406 and 498-A IPC registered at Police Station Women, Police Commissionerate, Ludhiana and all the subsequent proceedings arising there from, qua the petitioners, in light of the compromise effected between the parties.

Notice of motion.

On the asking of this Court, Mr. Kunwarbir Singh, Assistant A.G.Punjab accepts notice on behalf of the State.

Learned counsel for respondent No.2 filed Power of Attorney which is taken on record.

Let the statement of the parties concerned be recorded with regard to the aforesaid compromise on 20.02.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1. The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offender or any such proceedings have been initiated or pending against them.

2. Whether the compromise entered between the parties is genuine voluntarily without any coercion or undue influence.

3. Statement of 10 regarding involvement of petitioners in any other FIR.

4. Status of the trial pending before the Court.

To await the report, list again on 20.03.2023.”

3. Pursuant to the aforesaid order, report dated 24.02.2023 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

As per the statement of statement of the parties as well as Investigating officer and from the perusal of report under Section 173 Cr.P.C., the report is as under:-

“i) There are only two accused persons namely Raju S/o Nokhi Chand and Nokhi Chand S/o Budhi Chand and no accused has been declared proclaimed offender, and no such proceedings have been initiated or pending against them;

ii) As per the statements of the parties, compromise appears to be genuine one and also appears to be entered into voluntarily with free will of the parties without any coercion or undue influence or pressure of any kind;

iii) As per the statement of Investigating officer, there is no involvement of the accused/petitioners in any other FIR at P.S. Women Cell, Ludhiana;

iv) Before receiving the orders of the Hon'ble High Court, Chandigarh in CRM-M-1118-20223, the case was pending for prosecution evidence.”

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. 0073 dated 16.12.2020 under Sections 406 and 498-A of IPC, registered at Police Station Women, Police Commissionerate, Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 07.10.2022 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

21.02.2024
P.Singh

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