

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

322

CRM-M-2037-2024
Date of decision: 09.04.2024

ZAFAR IQBAL

....PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saqib Ali Khan, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Mahipal S. Yadav, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.122 dated 15.10.2016 under Sections 406, 498-A of IPC, registered at Police Station, City Women Cell, Ludhiana, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 04.10.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 13.03.2024, the following order was passed:

“The petitioner has 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.

Mr. Mahipal S. Yadav, Advocate for Mr. Sunny K. Singla, Advocate has appeared for respondent No. 2.

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

(i) The petitioner shall appear before the trial Court/Illaq Magistrate concerned on 21.03.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statement of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaq 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/Illaq Magistrate to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq 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/Illaq 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/Illaq Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaq 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/Illaq 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?

The report be submitted before this Court before the next date of hearing i.e. 09.04.2024."

3. Pursuant to the aforesaid order, report dated 02.04.2024 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 complainant Gulfshah and accused Zafar Iqbal recorded by the undersigned, all of them have echoed the version of having arrived at voluntary compromise with free will without any inducement, threat, pressure or coercion. Complainant Gulfshah even made statement that compromise is genuine, voluntarily without any inducement, threat, pressure or coercion and there is no grudge against the accused party and she has received the amount of Rs. 5,75,000/- by way of demand draft in her name towards the full and final satisfaction of the entire compromised amount and she has no objection if FIR in question is quashed by Hon'ble Punjab and Haryana High Court. The original statements of the parties recorded by the undersigned are being sent herewith.

The accused Zafar Iqbal also mentioned in his statement that he has compromised with the complainant Gulfshah out of his free will and consent and without any coercion or undue influence. He is not involved in any other case except present FIR. He has been appearing in this case regularly. Earlier he was declared as proclaimed offender but later on he has been granted the 'concession of the regular bail by the Hon'ble High Court and since then he has never remained absent and he is continuously appearing before this Hon'ble Court in the present trial. He further stated that he paid the settled amount to Gulfshah by way of two installments and he has already paid the amount of first installment through the bank draft and today he is handing over the second draft No.000012 in favour of the complainant Gulfshah towards her full and final satisfaction. Thereafter, investigating officer Retired Inspector Tarsem Singh was also summoned by the court, who appeared in the Court on 30.03.2023 and gave a separate statement that there is only one person namely Zafar Iqbal arrayed as accused, who is petitioner in the present petition and there is no any other complainant or aggrieved party other than the respondent arrayed in the present petition and accused was declared as proclaimed offender in the present case but later on he has been granted the concession of the regular bail by the Hon'ble High Court. He further stated that accused person has not been involved in any other FIR except the present one. On the basis of statements made by the parties appearing before me, the compromise on the face of it appears to be genuine one having been arrived at by the parties with free will without any pressure or coercion. There is nothing on the record to doubt the genuineness of the compromise so arrived at between the parties. The present case is

at the stage of prosecution evidence.”

4. Learned counsel for respondent No.2 admits the factum 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 that he has 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 the Hon'ble 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 the Hon'ble 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.122 dated 15.10.2016 under Sections 406, 498-A of IPC, registered at Police Station, City Women Cell, Ludhiana, District Ludhiana and all consequential

proceedings arising therefrom on the basis of compromise dated 04.10.2023
(Annexure P-2), are, hereby, quashed qua the petitioner.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 09, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No