

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

CRM-M-3063 of 2023

DATE OF DECISION :- 16.02.2024

Palwinder Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Anurag Arora, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Saurabh, Advocate for

Mr. Vishal Sharda, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 0031 dated 21.06.2017 under Section 498-A of IPC, registered at Police Station Women, District Police Commissionerate Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 11.11.2022 (Annexure P-2), which is stated to have been effected between the parties.

2. On 18.04.2023, the following order was passed:

“The petitioners have filed the present petition seeking quashing of FIR No.0031 dated 21.06.2017 under Section 498-A of the Indian Penal Code, 1860 registered at Police Station Women, District Police Commissionerate Jalandhar (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise dated 11.11.2022 (Annexure P-2).

Notice of motion.

On the asking of Court, Mr. Pankaj Khullar, AAG, Punjab, accepts notice on behalf of respondent No.1-State and Mr.

Vishal Sharda, Advocate accepts notice and filed Vakalatnama on behalf of respondent No.2, which is taken on record and admits the factum of compromise effected between the parties.

Adjourned to 21.08.2023.

In the meanwhile, the respondent No.2 is directed to get her statement recorded through video conferencing, for which the trial Court shall make suitable arrangements. Ms. Poonam, mother of the respondent No.2 (holding the General Power of Attorney on behalf of the respondent No.2) and petitioners No.1 and 2 are directed to appear before the concerned Illaqa/Duty Magistrate on 17.05.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 25.05.2023 from Judicial Magistrate Ist Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Most respectfully, this is reference to the subject cited above complainant Shilpa aged about 27 years d/o Kuldeep Singh r/o VPO Sansarpur BS Sadar, Jamsheer, Teh. And Distt. Jalandhar and accused namely 1. Palwinder Singh aged about 30 years s/o Amarjit singh 2. Jasvir Kaur aged about 58 years w/o Amarjit Singh both r/s Village Sohal khalsa, PO Talwandi Madho, Teh. Shahkot, Distt. Jalandhar together came present in the Court for recording their statements in order to confirm

genuineness of the compromise. They produced copy of the above said order passed by Honourable High Court passed in CRM-M-3063 of 2023 in case titled as 'Palwinder Singh and Anr. Vs. State of Punjab and Anr.' On joint request of the counsels for the parties, the time was fixed for recording the statements of the parties. On 17.05.2023 complainant and accused appeared in the Court in compliance of the above said order passed by Honourable High Court. The complainant has also suffered statement that She has compromised the matter with accused. She and accused party will remain peacefully in the future as per compromise affected between them. She has compromised with the accused party, without any threat, inducement or any kind of pressure. Now there is no grudge against the accused party. She want to live peacefully in the society in future. She does not want to take any action against the accused in the present case. She has got no objection, if the present FIR against the above mentioned accused be quashed by the Hon'ble High Court of Punjab and Haryana at Chandigarh. The present compromise has been taken place with the free consent and without any pressure. There is no other person as accused involved in the occurrence given in the FIR. None of the accused have been declared P.O in this case. Similarly, accused has also suffered statement to the effect that they have compromised with the complainant.

ASI Palwinder Singh, No. 3359/Jal posted at PS Women Cell, Jalandhar suffered statement that as per record the name of the complainant of the present case is Shilpa and except her there is no other complainant in this FIR. The name of the accused persons are Palwinder Singh and Jasvir Kaur Except them, there are no other persons nominated by the police as accused. As per record, accused persons are neither involved in any other case nor declared proclaimed offenders in any other criminal case.

The parties were present with their counsel and got recorded their statements in respect to the compromise taken place between them. All the parties are duly identified by their counsels.

As per record the name of the complainant of the present case is Shilpa and except her there is no other complainant in this FIR. The name of the accused persons are Palwinder Singh and Jasvir Kaur Except them, there are no other persons nominated by the police as accused. As per record, accused persons are neither involved in any other case nor declared proclaimed offenders in any other criminal case. In this case no physical injury has been suffered by the complainant. At present, the case is pending for the evidence of the prosecution.

Both parties have compromised the matter. There is no grudge remain between parties. The Compromise is voluntarily, without any pressure or coercion. This court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.”

4. Learned counsel appearing 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 are 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. 0031 dated 21.06.2017 under Section 498-A of IPC, registered at Police Station Women, District Police Commissionerate Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 11.11.2022 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

16.02.2024
P.Singh

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No