

CRM-M-3632-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-3632-2023

Date of decision:07.03.2024

Jagat Pal and others

....Petitioners

V/s

State of U.T. Chandigarh and others

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Kamlesh, Advocate for the petitioners.
Mr. Ankur Bali, Addl. P.P. U.T. Chandigarh.
Ms. Amandeep Kaur, Advocate for respondent Nos.2 and 3.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0192 dated 10.09.2022 under Sections 363 of IPC and Section 506 & 120-B (added later on), registered at Police Station, Sector-36, District Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 17.01.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 23.01.2023, the following order was passed:

“The petitioners have filed the present petition seeking quashing of FIR No.0192 dated 10.09.2022 under Sections 363 IPC and 506, 120-B added later on, registered at Police Station Sectpr-36, District Chandigarh and all other proceedings arising therefrom on the basis of the compromise dated 17.01.2023 (Annexure P-2).

Notice of motion.

On asking of the Court, Mr. Ankur Bali, Addl. PP, UT, Chandigarh, accepts notice on behalf of respondent No.1 and Ms. Amandeep Kaur, Advocate, accepts notice on behalf of respondents No.2 and 3.

Learned State counsel submits that petitioner No.2 is still absconding and there is no bail order in his favour.

Faced with the above, learned counsel for the petitioners submits that the statement under Section 164 Cr.P.C. had been recorded and there is no allegation leveled against petitioner No.1.

Be that as it may, petitioner No.1 may take appropriate steps in accordance with law.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 17-02-2023 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 report through learned Sessions Judge concerned on or before the date fixed before this Court.

Adjourned to 24-04-2023.”

3. Pursuant to the aforesaid order, report dated 20.04.2023 from Judicial Magistrate Ist Class, Chandigarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Accordingly, complainant Sunita wife of Guru Parsad and Manju (minor), daughter of Guru Parsad along with her mother Sunita appeared on 17.02.2023 and vide their joint statement recorded in the court, they have stated that the case/FIR No.192 dated 10.09.2022 under Section 363 IPC and 506,120B IPC added later at Police Station, Sector-36, Chandigarh was registered on their complaint. Now they have compromised the matter with the accused Jagat Pal, Raj Pal and Gayatri. The said compromise has been executed between accused and them without any pressure or coercion from any side. It is with their free will and the compromise is genuine and voluntary. They have no objection if the above said FIR is quashed against the accused.

Accused Jagat Pal, Raj Pal and Gayatri also appeared on 17.02.2023 and have suffered their joint statement that the case/FIR bearing No.192 dated 10.09.2022 under Section 363 IPC and 506, 120 B added later at Police Station-36, Chandigarh was registered on the complaint of complainant Sunita. Now, they have compromised the matter with the complainant. The said compromise has been executed

between them and complainant without any pressure or coercion from any side. It is with their free will and the compromise Ex.P1 is genuine and voluntary.

Thereafter, ASI Rajni Devi appeared and got recorded her statement to the effect that she is the Investigating Officer in the present case. In the present case, Sunita is the complainant and Jagat Pal, Raj Pal and Gayatri are accused and there are no other accused in the above stated FIR. The accused persons were not found involved in any other case pertaining to Police Station-Sector-36, Chandigarh at that time and accused persons have never been declared Proclaimed Offender in this case.

Queries were also put to the parties regarding the genuineness of the compromise during the proceedings. During query, parties have replied that the compromise has been entered into with their free will without any threat, coercion or undue influence from any corner qua accused Jagat Pal, Raj Pal and Gayatri. As per Investigating Officer of this case, accused persons have not been declared Proclaimed Offender and accused persons are not involved in any other FIR. The only victim is the complainant in this case.

The statements of the parties dated 17.02.2023 and statement of Investigating Officer dated 01.04.2023 are annexed herewith for kind perusal.”

4. Learned counsel for respondent Nos.2 & 3 admits the fact of parties having compromised and states that she 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 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. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

- i) **Ranjeet Kumar versus State of H.P. & Ors.** in case Cr.MMO No. 648 of 2023 decided on 08.12.2023 by the High Court of Himachal Pradesh, Shimla.
- ii) **Arif Khan versus The State and another** in case W.P. (CRL) 1064/2023 decided on 09.01.2024 by the High Court of Delhi at New Delhi.
- iii) **Sukhchain Singh and others versus State of Punjab** and others 2021(4) R.C.R. (Criminal) 81.
- iv) **Ananda DV Vs. State and another** 2021 SCC Online SC 3423.

9. 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) *As per the report received the compromise is said to be voluntary in its nature.*
- (iv) *Complainant/victim is reported to have entered into compromise on his own volition.*

10 Consequently, the petition is allowed. FIR No.0192 dated 10.09.2022 under Sections 363 of IPC and Sections 506 & 120-B (added later on), registered at Police Station, Sector-36, District Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 17.01.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

March 07, 2024
Ajay

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