

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

291

CRM-M-5321-2024

Date of decision: 22.02.2024

Simranpal Singh and others

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Deepa Negi, Advocate for
Mr. Surjit Singh Siwach, Advocate for the petitioners.
Mr. Yuvraj Singh, AAG Punjab.
Mr. Sahibjeet Singh Sandhu, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.151 dated 07.11.2023 under Sections 406 and 498-A of IPC, registered at Police Station, Amloh, District Fatehgarh Sahib and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 10.01.2024 (Annexure P-2), which is stated to have been effected between the parties.

2 On 01.02.2024, 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 Thind, AAG, Punjab, has put in appearance on behalf of respondent No.1-State and accepts notice.

Mr. Sahibjeet Singh Sandhu, Advocate has appeared and filed memorandum of appearance on behalf of 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/Illaqa Magistrate concerned on 06.02.2024 or any date thereafter as fixed by trial Court/Illaqa Magistrate for recording statements 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/Illaqa 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/Illaqa Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa 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/Illaqa 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/Illaqa Magistrate.

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

The report be submitted before this Court before the next date of hearing i.e 22.02.2024”

3. Pursuant to the aforesaid order, report dated 13.02.2024 from Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Amloh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Kindly refer to the subject cited above. In this regard, it is respectfully submitted that vide order dated 01.02.2024, the Hon'ble Punjab & Haryana High Court at Chandigarh had directed the parties of this case to appear before Area Magistrate/Trial Court to get recorded their statements, with regard to their compromise and had directed the Area Magistrate/Trial Court to then submit a report on or before the next date of hearing of the case before the Hon'ble High Court.

2. It is further respectfully submitted that Ripanjot Kaur complainant (duly identified by her counsel) has got recorded her separate statement that FIR No. 151 dated 07.11.2023, under Sections 406, 498-A of Indian Penal Code, 1860, Police Station Amloh, was registered on her statement against three accused persons namely (i) Simranpal Singh son of Surjit Singh r/o House No 3291, Sector 21-D, Chandigarh, (ii) Surjit Singh son of Gurdev Singh r/o House No. 3291, Sector 21-D, Chandigarh and (iii) Amarjit Kaur wife of Surjit Singh, r/o house No. 3291, Sector 21-D. Chandigarh. She is the only complainant/aggrieved party in the present FIR. Now with the intervention of the respectable, she has voluntarily entered into compromise with above said accused persons on her free will and compromise is genuine, voluntarily and without any coercion or undue influence. Copy of compromise is Ex.CX. She has no objection if the above said FIR and consequential proceedings are quashed by the Hon'ble Punjab and Haryana High Court against the above said accused persons namely Simranpal Singh, Surjit Singh and Amarjit Kaur Self attested copy of her AADHAAR Card is annexure-1

3. Accused Simranpal Singh (duly identified by his counsel) has got recorded his separate statement that FIR No.151 dated 07.11.2023, under Sections 406, 498-A of Indian Penal Code, 1860, Police Station Amloh, was registered on the statement of complainant Ripanjot Kaur daughter of Dr. Harpal Singh r/o House No. 84, Ward No.11, Amloh, Tehsil Amloh, District Fatehgarh Sahib against him and Surjit Singh son of Gurdev Singh, r/o House No.3291, Sector 21-D, Chandigarh and Amarjit Kaur wife of Surjit Singh r/o House No. 3291, Sector 21-D, Chandigarh. He has voluntarily entered into compromise with complainant,

which is genuine, voluntary and without any coercion or undue influence. Copy of compromise is Ex.CX. The above said FIR along with all the subsequent proceedings may be quashed against him in view of the compromise. No dispute is pending between him and complainant. He has not been involved in any other FIR. He has not been declared proclaimed offender in any other case as well as in the present case. Self attested copy of his AADHAAR Card is annexure-2.

4. *Accused Surjit Singh (duly identified by his counsel) has got recorded his separate statement that FIR No.151 dated 07.11.2023, under Sections 406, 498-A of Indian Penal Code, 1860, Police Station Amloh, was registered on the statement of complainant Ripanjot Kaur daughter of Dr. Harpal Singh r/o House No. 84, Ward No.11, Amloh, Tehsil Amloh, District Fatehgarh Sahib against him and Simranpal Singh son of Surjit Singh r/o House No.3291, Sector 21-D, Chandigarh and Amarjit Kaur wife of Surjit Singh r/o House No. 3291, Sector 21-D, Chandigarh. He has voluntarily entered into compromise with complainant, which is genuine, voluntary and without any coercion or undue influence, Copy of compromise is Ex.CX. The above said FIR along with all the subsequent proceedings may be quashed against him in view of the compromise. No dispute is pending between him and complainant. He has not been involved in any other FIR. He has not declared proclaimed offender in any other case as well as in the present case. Self attested copy of his AADHAAR Card is annexure-3.*

5. *Accused Amarjit Kaur (duly identified by her counsel) has got recorded her separate statement that FIR No.151 dated 07.11.2023, under Sections 406, 498-A of Indian Penal Code, 1860, Police Station Amloh, was registered on the statement of complainant Ripanjot Kaur daughter of Dr. Harpal Singh r/o House No. 84, Ward No.11, Amloh, Tehsil Amloh, District Fatehgarh Sahib against her and Surjit Singh son of Gurdev Singh, r/o House No.3291, Sector 21-D, Chandigarh and Simranpal Singh son of Surjit Singh r/o House No. 3291, Sector 21-D, Chandigarh. She has voluntarily entered into compromise with complainant, which is genuine, voluntary and without any coercion or undue influence. Copy of compromise is Ex.CX. The above said FIR along with all the subsequent proceedings may be quashed against her in view of the compromise. No dispute is pending between her and complainant. She has not been involved in any other FIR. She has not been declared proclaimed offender in any other case as well as in the present case. Self attested copy of her AADHAAR Card is annexure-4.*

6. *Investigating officer, ASI Sudesh Kumari No. 52/FGS, posted at Amloh, Fatehgarh Sahib has got recorded her separate statement that FIR No. 151 dated 07.11.2023, under Sections 406, 498-A of Indian Penal Code, 1860, Police Station Amloh, was registered on the statement of complainant Ripanjot*

Kaur daughter of Dr. Harpal Singh r/o House No. 84, Ward No.11, Amlah, Tehsil Amlah, District Fatehgarh Sahib against three accused persons namely (1) Simranpal Singh son of Surjit Singh ro House No. 3291, Sector 21-D, Chandigarh, (ii) Surjit Singh son of Gurdev Singh r/o House No. 3291, Sector 21-D, Chandigarh and (iii) Amarjit Kaur wife of Surjit Singh, ro house No. 3291, Sector 21-D, Chandigarh. In the present case, only three accused persons, are involved, no other person has been arrayed as accused in the present FIR. Ripanjot Kaur d/o Dr Harpal Singh is the only complainant/aggrieved party in the present case and no other complainant or affected/aggrieved party has been arrayed in the present case. None of the above said accused persons has been declared as Proclaimed person in the present case nor in any other case. Above said accused persons are not involved in any other criminal case.

7 *It is further humbly submitted that -*

(i) As per the statement of IO, ASI Sudesh Kumari No. 52/FGS, no other accused other than the petitioners, arrayed in this case

(ii) As per the statement of IO, ASI Sudesh Kumari No. 52/FGS, no other complainant or affected/aggrieved party other than the respondents, arrayed in the present case.

(iii) As per the statement of IO, ASI Sudesh Kumari No. 52/FGS, no accused person has been declared proclaimed offender in the present FIR.

8. *The complainant namely Ripanjot Kaur & accused persons namely Simranpal Singh, Surjit Singh, and Amarjit Kaur have no objection if the above said FIR and the consequential proceedings are quashed against the above said accused persons in view of the compromise entered into between the parties*

9. *This is for your kind information, please.”*

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 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 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.151 dated 07.11.2023 under Sections 406 and 498-A of IPC, registered at Police Station, Amlloh, District Fatehgarh Sahib and all consequent proceedings arising therefrom on the basis of compromise dated 10.01.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 22, 2024
Ajay

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