

CRM-M-6643-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

135

CRM-M-6643-2023 (O&M)

Date of decision: 27.02.2024

Surinder Kumar and others

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.S. Kalra, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Ramandeep Singh, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.141 dated 11.09.2022 under Sections 376(2)(n), 506 of IPC, registered at Police Station, Lalru, District SAS Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 16.12.2022 (Annexure P-5), which is stated to have been effected between the parties.

2 On 19.04.2023, the following order was passed:

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.141 dated 11.09.2022, under Sections 376(2)(n), 506 IPC, registered at Police Station Lalru, District S.A.S. Nagar (Annexure P-1) and all subsequent proceedings arising thereto on the basis of compromise deed dated 16.12.2022 (Annexure P-5).

Learned counsel for the petitioner as well the complainant submits that the parties have married and have a child also born out of the wedlock. The fact has been stated in the reply filed by the State also in para 7. Since, they have settled their disputes, married and have filed this petition for quashing of the FIR on that basis, they are directed to get their statements recorded.

The parties are directed to appear before the trial Court/Duty Magistrate on 10.05.2023 or any other date convenient to the Court, for recording their statements with regard to compromise.

The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties. The trial Court/Duty Magistrate shall also furnish the following information:

- 1. Whether there is any other accused, apart from the petitioners arrayed in this petition.*
- 2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.*
- 3. Whether the parties are involved in any other criminal case.*
- 4. Whether any of the parties has been declared a proclaimed offender.*

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e., 17.07.2023.”

3. Pursuant to the aforesaid order, report dated 02.06.2022 from Judicial magistrate Ist Class, Dera Bassi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is most respectfully submitted that copy of order dated 19.04.2023 passed by the Hon'ble Punjab & Haryana High Court, Chandigarh in CRM-M-No. 6643 of 2023 has been received whereby both the parties were directed to appear before the trial Court/Ilaqa Magistrate on 10.05.2023 for recording their statements with regard to the compromise and further, trial court/ Ilaqa Magistrate is directed to submit the report on or before the next date of hearing i.e. 17.07.2023.

In view of the above said order, all the accused/Petitioners namely Surinder Kumar, Naibo Devi, Sunny Ram and Jai Ram as well as complainant namely Rekha Saini came present alongwith their respective counsels in the court and statements of both the parties have been recorded on 10.05.2023. After going through the statements of the parties and compromise dated 16.12.2022 i.e. Mark P6, it is observed that the matter has been compromised between the parties voluntarily. All the grievances have been settled amicably between the parties without any coercion or undue influence.

It is further submitted that statement of complainant Rekha Saini has also been recorded separately who has stated in her statement that she has no objection, if the present FIR be quashed against accused persons.

It is further submitted that statement of SI Rajinder Singh, No.67/SAS Nagar, PS Lalru was also recorded, who has stated in his statement that he is presently investigating officer in the present case. He further stated that there is not any other accused apart from petitioners arrayed in this petition namely Surinder Kumar, Naibo Devi, Sunny Ram and Jairam. There is not any other complainant or affected/aggrieved party, apart from the respondent arrayed in the petition namely Rekha Saini. No other criminal case is pending against the parties. No accused has been declared as proclaimed person or proclaimed offender by the court in this case till date.

Accordingly, the report is hereby submitted for your kind consideration and further necessary action, 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 petitioner are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-5).

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.141 dated 11.09.2022 under Sections 376(2)(n), 506 of IPC, registered at Police Station, Lalru, District SAS Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 16.12.2022 (Annexure P-5), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

February 27, 2024
Ajay

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