



CRM-29222-2024 in/and
CRM-M-6644-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-29222-2024 in/and
CRM-M-6644-2024 (O&M)
Date of Decision: 29.07.2024

VISHAL

.. Applicant/Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amandeep Saini, Advocate for applicant-petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Kulbir Singh Saini, Advocate for respondents No.2 and 3.

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SUMEET GOEL, J. (Oral)**CRM-29222-2024**

1. Instant application has been filed for recalling of order dated 21.05.2024 as resultant restoration of CRM-M-6644-2024 under Section 482 of Cr.P.C.

2. The instant application has been filed on 17.07.2024 under Section 482 of Cr.P.C., 1973.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant application is not maintainable under Section 482 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the application in hand is one for recalling of order dated 21.05.2024 whereby the main petition was



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dismissed for non-prosecution. The instant application deserves to be treated as filed under Section 528 of BNSS.

3. Ordered accordingly.
4. Notice of the application to learned counsel opposite.
5. On asking of the Court, Mr. Adhiraj Singh Thind, AAG, Punjab appears and accepts notice on behalf of respondent No.1-State. Mr. Kulbir Singh Saini, Advocate accepts notice on behalf of respondents No.2 and 3.
6. Having heard the learned counsel for the parties and upon perusal of the record, this Court deems it appropriate to recall the order dated 21.05.2024 & the main petition i.e. CRM-M-6644-2024 is restored to its original status and number. List the main case today itself i.e. 29.07.2024.

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7. By way of present petition, the petitioner is seeking quashing of FIR No.34 dated 29.03.2023 under Sections 363 and 366 of the Indian Penal Code, 1860, registered at Police Station Nangal, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 17.10.2023 (Annexure-2), which is stated to have been effected between the parties.
8. On 08.02.2024, the following order was passed:

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.34 dated 29.3.2023 (Annexure P-1) registered under Sections 363 and 366 IPC at Police Station Nangal, District Rupnagar and all the consequential proceedings arising therefrom on the basis of compromise dated 17.10.2023 (Annexure P-2) effected between the parties.

Learned counsel for the petitioner, inter alia, submits that the present FIR was registered against the



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petitioner due to a misconception on the part of the complainant/respondent No.2. Now, a better sense has been prevailed between the parties and in order to live peacefully, parties have entered into compromise dated 17.10.2023 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. It is further submitted that the petitioner has never been declared as proclaimed offender.

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of respondent No.1-State; whereas Mr. Kulbir Singh Saini, Advocate, who is present in Court accepts notice on behalf of respondent No.2/complainant and respondent No.3, who is minor and represented through natural guardian and mother i.e. respondent No.2 and submits Vakalatnama, which is taken on record.

Learned counsel for respondent No. 1-State as well as learned counsel for respondent No.2 have not disputed the aforesaid submissions made by learned counsel for the petitioner and the factum of compromise effected between the parties. However, learned counsel for the State submits that the victim/respondent No.3 in the present case is 14 years old and the complainant/respondent No.2 is the mother of the victim. Learned State counsel on instructions from the Investigating Officer submits that as per her statement recorded under Section 164 Cr.P.C. the victim had gone with the petitioner, who is 20 years old on her own will.

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise dated 17.10.2023 (Annexure P-2) on 21.2.2024 by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing i.e. 21.5.2024 containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary*



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and without any coercion or undue influence;

4. Whether the accused persons are involved in any other FIR or not; and

5. The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.

A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.”

9. Pursuant to the aforesaid order, report dated 07.05.2024 from Id. District and Sessions Judge, Rupnagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) In case FIR No.34 dated 29.03.2023, under Sections 363 & 366 IPC, PS Nangal, District Rupnagar, only one accused namely Vishal son of Deepak @ Dodi resident of Village Sofi, PS Cantt Jalandhar, District Jalandhar has been arrayed as accused, on the basis of statement of complainant who is mother of the victim.

(ii) In the above-mentioned FIR, no accused is declared as proclaimed offender, since there is only one accused who is on bail in this case.

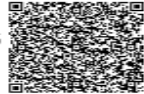
(iii) The compromise (copy of which is Ex. C1) appears to be genuine, voluntarily and without any coercion or under influence amongst complainant and father of accused.

(iv) As per Investigating Officer ASI Keshav Kumar, accused Vishal son of Deepak @ Dodi is not involved in any other FIR except present one.

(v) There is only complainant who is mother of victim and only one victim i.e. daughter of complainant and only one accused in the present FIR.”

10. Learned counsel for respondent Nos.2 and 3 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.

11. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).



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12. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

13. 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 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.*



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(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.

14. 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.

15. 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.*

16. Consequently, the petition is allowed. FIR No.34 dated 29.03.2023 under Sections 363 and 366 of the Indian Penal Code, 1860, registered at Police Station Nangal, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 17.10.2023 (Annexure-2), are, hereby, quashed qua the petitioner.



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17. Pending applications, if any, shall also stand disposed off.

29.07.2024
Jasmine Kaur

**(SUMEET GOEL)
JUDGE**

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No