

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

271

CRM-M-8651-2023

Date of decision: 08.05.2024

HARPREET AND ANR.

....PETITIONERS

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bikram, Advocate for
Mr. Vinay Puri, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Amandeep Singh, Advocate for
Mr. Puneet Singla, Advocate for respondent Nos.2 and 3.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.0215 dated 29.08.2018 under Sections 323, 354-B, 509, 511 of IPC, registered at Police Station, Rama Mandi, District Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 27.01.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 17.02.2023, the following order was passed:

The petitioner(s) - Harpreet and Munish Kumar have filed the instant petition under Section 482 Cr.P.C. for quashing of FIR No. 0215 dated 29.08.2018, under Sections 323, 354-B, 509, 511 of IPC, registered at Police Station Rama Mandi, District Jalandhar on the basis of compromise dated 27.01.2023. Notice of motion.

On the asking of this Court, Mr. Kunwarbir Singh, AAG, Punjab accepts notice on behalf of the State. Learned counsel for the petitioner(s) is directed to supply him a complete copy of the

paperbook.

Mr. Puneet Singla, Advocate has filed vakalatnama on behalf respondent No. 2, which is taken on record. Let the statements of the parties be recorded with regard to the compromise on 24.04.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1. The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offender(s) or any such proceedings have been initiated or pending against them.

2. Whether the compromise entered between the parties is genuine, voluntarily without any coercion or undue influence.

3. FIR. Statement of IO regarding involvement of petitioner(s) in any other

4. Status of the trial pending before the Court.

To await the report, list again on 22.05.2023.

Status report be filed by respondent State by the adjourned date.”

3. Pursuant to the aforesaid order, report dated 26.04.2024 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:-

“With due regard and with reference to the order dated 18.04.2024, passed in Criminal Misc. No. CRM-M-8651 of 2023 statement of respondent No.3 Phootwati has been recorded by this Court on 23.04.2024.

Respondent No.3 Phoolwati suffered a statement, which has been separately recorded, to the effect that above said FIR was registered on the statement of her daughter namely Sunaina against Munish Kumar Bawa alias Bawa (since died) and Harpreet alias Harry. She further stated that she is one of the victim in this case and a compromise has been effected between her and accused persons voluntarily, without any pressure, threat or coercion with her own free will. She further stated that she has no objection, if the above said FIR be quashed against the above named accused persons. She has placed on record photocopy of her Aadhar Card as Ex.C4 In this case on 24.04.2023 respondent No.1 has already recorded her statement to the effect that compromise has been effected between her and accused persons voluntarily, without any pressure, threat or coercion with her own free will. She further stated that she has no objection, if the above said FIR be quashed against the above named accused persons. She has placed on record photocopy of her Aadhar Card as Ex.C1. On the same day, petitioners/accused Harpreet alias Harry and Munish alias Bawa has already suffered statements, which were separately recorded, to the effect that compromise has been effected between them and respondents voluntarily, without any pressure, threat or coercion with their own will. They further

prayed that above said FIR may kindly be quashed. They have also placed on record photocopy of their Aadhar Card as Ex.C2 & Ex.C3.

Thereafter, on 26.04.2023 investigating officer of this case appeared and made a statement, which is reproduced as under:- "Stated that above noted FIR was registered on the statement of victim girl. The investigation of the present case was conducted by me. The present FIR was registered against the accused Munish Kumar alias Bawa son of Buta Ram, resident of H. No.18/1, Satnam Nagar, Chuggitti, Jalandhar and Harpreet Singh alias Harry son of Kuldeep Chand, resident of H. No.18/1, Satnam Nagar, Chuggitti, Jalandhar. No accused has been declared PO in this case. Now the compromise has been effected between the parties without any pressure, coercion or undue influence from any quarter and the said compromise is genuine and voluntarily made by the parties. No other FIR is registered against any of accused. The present case is listed for evidence of prosecution. The report submitted for your kind perusal."

On the basis of statements made by the parties, the compromise on the face of it appears to be genuine one having been arrived at by the parties with free will without any pressure or coercion. There is nothing on the record to doubt the genuineness of the compromise so arrived at between the parties. Further in view of the statement of investigating officer present FIR was registered against two accused and no accused has been declared proclaimed offender in this case.

With these submissions, the report with regard to the compromise is being submitted accordingly for the kind perusal of the Hon'ble Court please."

4. Learned counsel for respondent Nos.2 and 3 admits the factum 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 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 the Hon'ble 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. 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 CRM-M-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.0215 dated 29.08.2018 under Sections 323, 354-B, 509, 511 of IPC, registered at Police Station, Rama Mandi, District Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 27.01.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

May 08, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No