

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

272

CRM-M-8661-2023
Date of decision: 21.05.2024

ASHOK KUMAR

....PETITIONER

V/s

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Deepak K. Sharma, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Vishwajeet Mehta, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.95 dated 08.05.2022 under Sections 313, 323, 34, 354-A, 376(2) (h), 376(2) (I), 377, 406, 498-A, 506 of IPC, registered at Police Station Women, Jind, District Jind and all consequential proceedings arising therefrom on the basis of compromise dated 25.01.2023 (Annexure P-2), which is stated to have been effected between the parties.
2. On 12.04.2023, the following order was passed:

“The petitioner has filed the present petition seeking quashing of FIR No.95 dated 08.05.2022 under Sections 313, 323, 34, 354-A, 376(2)(h) 376(2)(i), 377, 406, 498-A and 506 of the Indian Penal Code, 1860 (challan has been presented under Section 498-A, 323 and 506 of IPC), registered at Police Station Women, Jind, District Jind (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise dated 25.01.2023 (Annexure P-2).

Notice of motion.

On the asking of Court, Mr. S.S. Pannu, DAG, Haryana, accepts notice on behalf of respondent No.1-State and Mr. Vishwajeet Singh, Advocate accepts notice and filed Vakalatnama on behalf

of respondent No.2, which is taken on record and admits the factum of compromise effected between the parties.

Adjourned to 09.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 15.05.2023 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 (petitioner) 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/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 06.05.2024 from Judicial Magistrate Ist Class, Jind has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted that on 29.04.2024, parties in the above noted case and on 02.05.2024 I.O. Geeta appeared before the court of undersigned and got their statements recorded as per order dated 12.04.2023 & 24.04.2024 passed by the Hon'ble High Court. I have inquired from them (especially from complainant Manisha Devi D/o Satbir Singh) regarding validity of compromise and found that the parties have settled the dispute amicably without any undue influence or pressure. Statements of parties were recorded along with the I.O. of the present case and report in this regard is enclosed herewith for kind perusal of Hon'ble High Court, as desired.”

4. Learned counsel for respondent No.2 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 petitioner is 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.95 dated 08.05.2022 under Sections 313, 323, 34, 354-A, 376(2) (h), 376(2) (I), 377, 406, 498-A, 506 of IPC, registered at Police Station Women, Jind, District Jind and all consequential proceedings arising therefrom on the basis of compromise dated 25.01.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

May 21, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No