

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

265-1

CRM-M-10408-2022

Date of decision: 26.02.2024

Roshan Masih @ Roshan Singh and others

....Petitioners

V/s

State of Punjab and others

....Respondents

**CORAM: HON’BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. H.S. Batth, Advocate for the petitioners.

Mr. Yuvraj Singh, AAG Punjab.

Mr. Gaurav Kalsi, Advocate for respondent Nos.2 and 3.

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**SUMEET GOEL, J. (Oral)**

1. By way of present petition, the petitioners are seeking quashing of FIR No.58 dated 20.09.2010 under Sections 363, 366 and 120-B of IPC, registered at Police Station, Khalra District Tarn Taran and all consequent proceedings arising therefrom on the basis of compromise dated 17.02.2022 (Annexure P-4), which is stated to have been effected between the parties.

2 On 11.03.2022, the following order was passed:

*“By way of this petition, petitioners have prayed for quashing of the FIR No.58 dated 20.09.2010, registered under Sections 363, 366 and 120-B of the Indian Penal Code, at Police Station Khalra, District Tarn Taran, along with all consequential proceedings arising therefrom, on the basis of compromise dated 17.02.2022 (Annexure P-4).*

*Learned counsel for the petitioners contends that in fact the issue has arisen out of the matrimonial discord and now the matter already stands compromised vide compromise deed dated 17.02.2022 (Annexure P- 4).*

*Notice of motion for 04.04.2022,*

*On the asking of the Court, Mr. Hittan Nehra, Addl. A.G., Punjab, appears and accepts notice on behalf of the respondent-State.*

*Mr. Gaurav Kalsi, Advocate, appears and accepts notice on behalf of respondents No. 2 and 3 and admits the factum of there being a compromise between the parties.*

*In view of the above, the parties i.e. the petitioners as well as respondents No.2 and 3 are directed to appear before the learned Illaqa Magistrate/ trial Court on 17.03.2022 to record their statements in respect of the said compromise.*

*On their doing so, the learned trial Court shall record their statements and furnish its report to this Court by the next date of hearing containing the following information:-*

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as how to victims/complainants are there in the FIR.*

*A copy of the report be also sent through fax to the Registrar Judicial of this Court.*

*Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”*

3. Pursuant to the aforesaid order, report dated 25.03.2022 from Judicial Magistrate Ist Class, Patti has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“1. In pursuance of order dated 11.03.2022 passed by Hon'ble Punjab & Haryana High Court in Criminal Miscellaneous No. CRM-M- 10408-2022 titled "Roshan Masih @ Roshan Singh and Others Vs State of Punjab and Another", I have the honour to submit the report as required.*

*2. In compliance of the above-mentioned order, Joint Statement of respondent no. 2 Partap Singh and respondent no. 3 Kulwinder Kaur has been recorded. Complainant Partap Singh stated that he has lodged the present FIR against the accused persons namely Roshan Masih @ Roshan Singh, Gulzar Singh @ Gulzar Masih and Ninder Kaur @ Nindro. They further stated that the matter has been*

*compromised with the accused persons with their consent, free will and without any kind of pressure, fear and undue influence. As such, the present FIR may kindly be quashed on the basis of compromise. The complainant/respondents has been identified by their Counsel during recording of statement and further verified by their Adhaar Card.*

3. *Similarly, accused persons/petitioners namely Roshan Masih @ Roshan Singh S/o Gulzar Singh @ Gulzar Masih, Gulzar Singh @ Gulzar Masih son of Udham Singh and Ninder Kaur @ Nindro wife of Gulzar Singh Gulzar Masih have suffered a joint statement to the effect that the matter has been compromised between them and complainant/respondent No.2 Partap Singh and respondent No. 3 Kulwinder Kaur without any pressure, fear or undue influence and same has been done with the free consent of the parties and compromise is genuine, voluntary and without any coercion or undue influence. The petitioners/accused persons were identified by their Counsel during recording of their statement and further verified by their Adhaar Cards.*

4. *Further ASI Salwinder Singh No. 1386/T.T. Investigating Officer, P.S-Khalra has suffered a statement to the effect that present case has been registered on the statement of complainant Partap Singh against Roshan Masih @ Roshan Singh S/o Gulzar Singh @ Gulzar Masih, Gulzar Singh @ Gulzar Masih son of Udham Singh and Ninder Kaur @ Nindro wife of Gulzar Singh @ Gulzar Masih. He further stated that there are total three persons arrayed as accused in the FIR and Partap Singh is complainant. It has been stated that petitioner Roshan Masih @ Roshan Singh S/o Gulzar Singh @ Gulzar Masih has been declared proclaimed offender by Court of Sh. Mahesh Grover, the then Judicial Magistrate Patti vide order dated 01.03.2011. The challan has been presented against accused Roshan Masih @Roshan Singh S/o Gulzar Singh @ Gulzar Masih and other accused Gulzar Singh @ Gulzar Masih son of Udham Singh and Ninder Kaur @ Nindro has been kept in column No.2 of the challan. Accused persons are not involved in any other case.*

5. *Further as required by Hon'ble Punjab and Haryana High Court, pointwise report is submitted as under:-*

- 1. There are total three persons arrayed as accused in the FIR.*
- 2. The accused namely Roshan Masih @Roshan Singh is declared as proclaimed offender by learned Court of Sh. Mahesh Grover, the then Judicial Magistrate Patti vide order dated 01.03.2011.*

3. *The compromise is genuine, voluntary and without any coercion or undue influence as per the statements of the parties.*

4. *Accused persons are not involved in any other case.*

5. *As directed statement of 1.0 has been recorded who stated that there is one complainant namely Partap Singh in the FIR.*

*The copies of statements are enclosed herewith for kind perusal of the Hon'ble Punjab & Haryana High Court. Copy of this report be also sent through fax as directed by Hon'ble Punjab and Haryana High Court.*

*Submitted please”*

4. Learned counsel for respondent Nos.2 & 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 petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-4).

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.58 dated 20.09.2010 under Sections 363, 366 and 120-B of IPC, registered at Police Station, Khalra District Tarn Taran and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 17.02.2022 (Annexure P-4), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)  
JUDGE

February 26, 2024  
Ajay

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