

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-16145-2023
Date of decision: 08.04.2024

GULAM SHAH ALIAS PAPPI AND ANOTHER
....PETITIONERS
V/s
STATE OF PUNJAB AND OTHERS
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nitin Mittoo, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Anshul Sharma, Advocate for
Mr. Rahul Verma, Advcoate
for respondent Nos.2 & 3

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.101 dated 03.08.2021 nder Sections 363, 366-A of IPC, registered at Police Station, Chabbewal, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise dated 21.02.2023 (Annexure P-3), which is stated to have been effected between the parties.
2. On 12.03.2024, the following order was passed:

“CRM-10417-2024
For the reasons mentioned in the application and as also the submissions made by learned counsel for the petitioners, the same is allowed and the order dated 15.02.2024 is recalled The petition is ordered to be restored to its original number and status. The petition is taken up on Board today itself i.e. 12.03.2024.
CRM-M-16145-2023
The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.
Noticeofmotion.
At this stage, Mr. Adhiraj Singh Thind, AAG, Punjab, has put in

appearance on behalf of respondent No 1-State of Punjab and accepts notice.

Mr. Rahul Verma, Advocate has filed vakalatnama for respondent No.2 and 3. The same be taken on record. The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioners shall appear before the trial Court/Illaq Magistrate concerned on 18.03.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statement of the petitioners as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaq Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaq Magistrate to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing. the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaq Magistrate may also choose to get the statements of the parties recorded through some Commissioner. appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel This shall be subject to satisfaction of trial Court/Illaq Magistrate. parties in either After recording the statements of all the affected of the aforesaid manner, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaq Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition. Whether there is any other complainant or affected/aggrieved

(ii) party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 08.04.2024.”

3. Pursuant to the aforesaid order, report dated 01.04.2024 from Judicial Magistrate Ist Class, Hoshiarpur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) Whether there is any other accused other than the petitioners, arrayed in this petition:

As per statement of ASI Tejinder Singh, Investigating Officer, there are two accused namely Gulam Shah @ Pappi and Bale Mohammad @ Billa nominated in the present FIR.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

In the present FIR, other than the Complainant Mohammad Makhan, Julfa is aggrieved/affected person. Statements of complainant alongwith other affected/aggrieved person have been recorded. Except them, there is no other complainant or aggrieved party in the present case.

(iii) Whether any accused has been declared Proclaimed Offender?

As per statement of Investigating Officer, the accused, who are nominated in the said case have not been declared as proclaimed offender and no such proclamation proceeding is pending against the in any Court.”

4. Learned counsel for respondent Nos.2 & 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-3).

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.101 dated 03.08.2021
nder Sections 363, 366-A of IPC, registered at Police Station, Chabbewal, District
Hoshiarpur and all consequential proceedings arising therefrom on the basis of
compromise dated 21.02.2023 (Annexure P-3), are, hereby, quashed qua the
petitioners.
11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

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