

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-17477-2024
Date of decision: 08.05.2024

ASHWANI NALWA AND ANOTHER
V/s
STATE OF HARYANA AND ANOTHER
....PETITIONERS
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kushager Goyal, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Ms. Preeti Bansal, Advocate for
Mr. Ankur Dua, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.0236 dated 08.09.2023 under Sections 498-A, 406, 509, 342, 323, 34 of IPC, registered at Police Station, Ding, District Sirsa, Haryana and all consequential proceedings arising therefrom on the basis of compromise dated 01.04.2024 (Annexure P-2), which is stated to have been effected between the parties.
2. On 08.04.2024, the following order was passed:
- “The petitioner has 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.
Notice of motion.
At this stage, Mr. S.K. Panwar, Additional, AG, Haryana, has put in appearance on behalf of respondent No.1-State of Punjab and accepts notice.
Mr. Ankur Dua, Advocate has filed vakalatnama for respondent No. 2. 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 petitioner shall appear before the trial Court/Illaq Magistrate concerned on 15.04.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statements of the petitioner 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 statements 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.

After recording the statements of all the affected parties in either 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 petitioner, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved 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. 08.05.2024."

3. Pursuant to the aforesaid order, report dated 24.04.2024 from Judicial Magistrate Ist Class, Sirsa has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that in the above said case, vide order dated 08.04.2024 passed by the Hon'ble Punjab & Haryana High Court, parties were directed to appear before the trial court for recording their statements with regard to compromise.

Accordingly, parties appeared and statement of complainant Poonam, was recorded in the court, in which she has stated that she is complainant in the present case and had lodged the FIR no.236 dated 08.09.2023, U/Ss 498-A, 406, 509, 342, 323, 34 IPC, P.S. Ding against accused Ashwani Nalwa, Savitri Devi, Sawita, Jagita, Vicky and Pinki. However, challan only against accused Ashwani Nalwa and Savitri Devi has been filed and remaining accused were found innocent. Now, matter has been compromised between her and accused persons. Now, she and accused Ashwani Nalwa are living together with their consent. She is voluntarily giving the present statement. Further, she has entered into compromise with the accused persons without any threat, any kind of influence, coercion or pressure. The compromise entered between them is valid, genuine and correct. It is not the result of any fraud or misrepresentation and is with the free will of the parties. She does not wish to proceed the present case further. There is no other complainant and affected/aggrieved party other than her in the present case. She has no objection if the above noted FIR be quashed by the Hon'ble High Court.

Accused namely Ashwani Nalwa and Savitri Devi, have also made their joint statement that the above noted FIR is lodged against them and now matter has been compromised between them and complainant with the intervention of the Panchayat. Now, he (accused Ashwani Nalwa) and complainant (Poonam) are living together with their consent. They (both accused) are not involved in any other criminal case or have not been declared proclaimed offender by any other court of law. There is no other accused other than them in the present case. There is only one complainant in this case and no other affected party other than complainant. Further, I have entered into compromise with the complainant without any threat, any kind of influence, coercion or pressure. The compromise entered between them is valid, genuine and correct. They requested for quashing the present FIR.

Statement of ASI Kiranpal Kaur no.1287/SRS, Investigating officer of the present case was also recorded. As per her statement, she is investigating officer of the present case FIR no.236 dated 08.09.2023, U/Ss 323, 342, 406, 498-A, 509, 34 IPC, P.S. Ding. Present FIR was lodged upon the complaint of complainant Poonam against accused Ashwani Nalwa, Savitri Devi, Sawita, Jagita, Vicky and Pinki. However, challan only against accused Ashwani Nalwa and Savitri Devi has been filed and remaining accused were found innocent. There is no other accused in the present case other than accused Ashwani Nalwa and Savitri Devi. As per record above said accused Ashwani Nalwa and Savitri Devi are not involved in any other FIR and they have not been declared as Proclaimed Offender by any court of law. There is no other complainant and affected/aggrieved party in the present case other than complainant Poonam.

Queries were also put to the parties regarding the genuineness of the compromise during the proceedings. During query, parties have replied that the compromise has been entered into with their free Will without any threat, coercion or undue influence from any corner.

It is submitted that the compromise between the parties is genuine, voluntary and without any coercion or undue influence; as per statement of Investigating officer and other statements, FIR was lodged against Ashwani Nalwa, Savitri Devi, Sawita, Jagita, Vicky and Pinki. However, challan was submitted only against accused Ashwani Nalwa and Savitri Devi. As per statement of investigating officer, accused namely Ashwani Nalwa and Savitri Devi have never been declared proclaimed offender and they have not been involved in any other FIR. There is only one Victim/complainant namely Poonam in the present case and there is no other complainant or affected/aggrieved party other than complainant Poonam; complainant Poonam and accused Ashwani Nalwa and Savitri Devi are party to compromise in question. There are only two accused namely Ashwani Nalwa and Savitri Devi in the present case. The photocopies of the statements of the parties and Investigating Officer of the present case are annexed herewith for your honour's kind perusal."

4. Learned counsel for respondent No.2 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-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. 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) *The parties have compromised.*
- (iv) *As per the report received the compromise is said to be voluntary in its nature.*
- (v) *Complainant/victim is reported to have entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No.0236 dated 08.09.2023 under Sections 498-A, 406, 509, 342, 323, 34 of IPC, registered at Police Station, Ding, District Sirsa, Haryana and all consequential proceedings arising therefrom on the basis of compromise dated 01.04.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

10. 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