IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16437-2024
Date of decision: 15.07.2024

SACHIN JAIN AND ORS ....**PETITIONERS**

V/s

STATE OF PUNJAB AND ANR ....**RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Nain, Advocate for
Mr. Sandeep Kumar, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Jastaran Chhatwal, Advocate
for respondent No.2.

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SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.94 dated 02.08.2023 under Sections 498-A, 406, 323 of IPC, registered at Police Station Phase-8, SAS Nagar, Mohali and all consequential proceedings arising therefrom on the basis of compromise dated 20.02.2024 (Annexure P-2), which is stated to have been effected between the parties.

2. On 02.05.2024, the following order was passed:

> *"Mr. Jastaran Chhatwal, Advocate accepts notice on behalf of respondent No.2 and has filed his vakalatnama. The same is taken on record.*
> *He has admitted the factum of compromise effected between the parties.*
> *Counsel for the petitioner has mentioned in memo of parties of the petition that the petitioners have not been declared as proclaimed persons.*
> *The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/Duty Magistrate on 06.06.2024 or any other future date as per its convenience or on request of the parties for getting their statements recorded with regard to the*

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> *compromise. However, it is made clear that no further adjournment shall be granted to the parties for that purpose. The Illaqa/Duty Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-*
> *1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/proclaimed persons, in the case;*
> *2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
> *3. the stage of trial/proceedings pending;*
> *4. if the compromise is genuine, voluntary and out of free will of the parties.*
> *5. Whether any other criminal case pending against the accused.*
> *Report of Illaqa/Duty Magistrate be awaited for 12.07.2024."*

3. Pursuant to the aforesaid order, report dated 10.07.2024 from Judicial Magistrate Ist Class, SAS Nagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

> *"1. It appears from the statement of the Investigating Officer that there are three accused persons namely Sachin Jain, Shanta Jain and Sukhdev Raj Jain arrayed in the present FIR.*
> *2. It appears from the statement of the Investigating Officer that there is only one complainant and injured/aggrieved namely Payal Jain.*
> *3. The case is pending for investigation as the final report u/s 173 CrPC has not yet been filed.*
> *4. Compromise between parties seems to be genuine, voluntary, without any threat or coercion or undue influence.*
> *5. It appears from the statement of the Investigating Officer that no other criminal case is pending against the accused.*
> *6. It appears from the statement of the Investigating Officer that none of the accused is absconding/proclaimed person."*

4. Learned counsel appearing for the petitioners has handed over FDR of Rs.5 lacs in the name of Payal Jain to learned counsel appearing for respondent No.2. Photocopy thereof be retained on record.

5. 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.

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6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

7. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

8. 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*

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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.

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) 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.

10. Consequently, the petition is allowed. FIR No.94 dated 02.08.2023 under Sections 498-A, 406, 323 of IPC, registered at Police Station Phase-8, SAS Nagar, Mohali and all consequential proceedings arising therefrom on the basis of

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compromise dated 20.02.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

July 15, 2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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