

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18662-2023
Date of decision: 25.01.2024

PARDEEP SINGH AND ANOTHER Petitioners
V/s

STATE OF PUNJAB AND ANOTHER Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gurpreet Singh Bhasin, Advocate
for the petitioners.

Mr. Hemant Aggarwal, AAG, Punjab.

Ms. Harnoor Singh Majithia, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.0004 dated 20.01.2023 under Section 498-A of IPC, registered at Police Station Women Cell, District Malerkotla and all consequent proceedings arising therefrom on the basis of compromise dated 17.03.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 17.04.2023, the following order was passed:

“The petitioner(s) filed petition under Section 482 Cr.P.C. for quashing of FIR No.0004 dated 20.01.2023 under Section 498-A of IPC registered at Police Station Women Cell, District Malerkotla and all the subsequent proceedings arising there from, qua the petitioner(s), in light of the compromise effected between the parties.

Notice of motion.

On the asking of this Court, Mr. Kunwarbir Singh, Assistant A.G. Punjab accepts notice on behalf of the State.

Mr. Harnoor Singh, Advocate appeared on behalf of respon-dent No.2 and filed Vakalatnama which is taken on record.

Let the statement of the parties concerned be recorded with re-gard to the aforesaid compromise on 30.05.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the said Court, In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1.The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offender or any such pro-ceedings have been initiated or pending against them.

2.Whether the compromise entered between the parties is genuine vol-untarily without any coercion or undue influence.

3. Statement of IO regarding involvement of petitioner(s) in any other FIR.

4. Status of the trial pending before the Court.

To await the report, list again on 24.07.2023.

Learned State counsel is directed to file status report on or before the next date of hearing.”

3. Pursuant to the aforesaid order, report dated 06.06.2023 from Judicial Magistrate, 1st Class, Malerkotla, 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 compliance to directions given by the Hon'ble Punjab and Haryana High Court vide its order dated 17/4/2023 passed in CRM-18662-2023, statements of parties with regard to compromise were recorded on 30/5/2023 and statement of Investigating Officer ASI Jagroop Singh was also recorded on 30/5/2023

Complainant Jasvir Kaur suffered a statement to the effect that a case bearing FIR No.04 dated 20/1/2023 under Section 498-A of IPC was registered at P.S Women Cell, Malerkotla on the basis of complaint made by her against accused Pardeep Singh and Jaswinder Kaur @ Bholi Kaur. A

compromise has been effected between her and both the accused. The said compromise has been effected between us voluntarily without any preessure, threat or coercion with her own free Will. In order to prove her identity, she has placed on record copy of her Adhar Card as mark A (original seen and returned) and was identified by Sh. Shakil Mohd., Advocate. She has also pasted her photograph on her statement. She has no objection if the above said FIR be quashed against the accused persons.

Accused Pardeep Singh and Jaswinder Kaur @ Bholi Kaur also suffered separate statements to the effect that a case bearing FIR No.04 dated 20/1/2023 under Section 498-A of IPC was registered at P.S Women Cell, Malerkotla, on the basis of complaint made by complainant Javir Kaur against them. A compromise has been effected with the complainant voluntarily without any pressure, threat or coercion with their own Will. In order to prove their identities, they have placed on record copy of their Aadhar Cards as mark B and mark C (original seen and returned) and was identified by Sh. Thomas Bhangari, Advocate. They have also pasted their photographs on their statement. They further stated that above said FIR may kindly be quashed.

In view of statements given by parties following report is hereby submitted as desired by your goodself:-

(1) It is respectfully submitted that as per the statement of Investigating Officer ASI Jagroop Singh, he stated that there

are two accused involved in the present FIR and they have never been declared as proclaimed offenders. No other proceedings have been initiated or pending against them.

(2) It is respectfully submitted that in view of statements given by the parties this Court is of the considered opinion that the compromise effected between the parties (between complainant Jasvir Kaur as well as accused Pardeep Singh and Jaswinder Kaur @ Bholi Kaur) is genuine and it is effected voluntarily without any pressure, coercion or undue influence from any quarter.

(3) It is respectfully submitted that as per statement of IO, accused are not involved in any other FIR

(4) It is respectfully submitted that the challan has not yet been presented in the present FIR”

4. Learned counsel for respondents No.2 admits the factum of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly, learned State counsel has stated that he has 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 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 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 :-

- *Putting a quietus to the proceedings will bring peace and tranquility amongst parties & will accordingly further the cause of substantial justice.*
- *The offences alleged are primarily of private nature.*
- *The parties have compromised.*
- *As per the report received the compromise is said to be voluntary in its nature.*
- *Complainant/victim is reported to have entered into compromise on his own volition*

9 Consequently, the petition is allowed. FIR No.0004 dated 20.01.2023 under Section 498-A of IPC, registered at Police Station Women Cell, District Malerkotla and all consequent proceedings arising therefrom on the basis of compromise dated 17.03.2023 (Annexure P-2), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

January 25, 2024
jasmine kaur/smriti

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