

2024:PHHC:019665

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-18248-2023

Date of decision: 12.02.2024

Tarun @ Tarun Solanki

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harsh Jain, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Gitesh Sharma, Advocate for

Mr. R.K. Rana, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.93 dated 11.03.2023 under Sections 376 of the Indian Penal Code, 1860, registered at Police Station Old Faridabad, District Faridabad and all consequent proceedings arising therefrom on the basis of compromise, which is stated to have been effected between the parties.

2. On 17.04.2023, the following order was passed:

“The petitioner through instant petition, on the basis of compromise, is seeking quashing of FIR No.93 dated 11.03.2023 (Annexure P-1), registered at Police Station Old Faridabad, District Faridabad, Haryana under Section 376 of IPC, 1860.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana and Mr. R.K. Rana, Advocate accept notice on behalf of respondent No. 1 State and respondent No. 2 respectively. Power of attorney of respondent No.2 is taken on record.

Parties may appear before learned trial Court/Illaq Magistrate concerned on 20.07.2023 or any other date convenient to said Court and get their statements recorded with regard to compromise. In the event of their statements being recorded, the Court

will send copies of same to this Court before next date of hearing alongwith its report disclosing:

- i) genuineness and voluntary nature of compromise;*
- ii) how many persons are nominated in FIR/police report;*
- iii) how many accused/victims out of total accused/victims have entered into compromise,*
- iv) if there is partial compromise, what is role of the accused;”*

3. Pursuant to the aforesaid order, report dated 20.01.2024- from learned Additional District & Sessions Judge, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted, to kindly consider the present report, serial number-wise, on the requisite information mentioned above, as desired please:-

- i. that the parties to the present case, did not seem to be under any kind of undue-influence, force, pressure, threat or inducement, while recording their statements in the Court please.*
- ii. that there was only one accused, namely Tarun @ Tarun Solanki (ie the petitioner), in the present case.*
- iii. that since there was only one accused and one victim in the present case, both of them, have arrived at a compromise with each other.*
- iv. that there is no partial compromise between the parties, to the present case please.*
- v. that the present case was at the stage of prosecution evidence.*
- vi. that the accused named above, was on bail in the present case.*
- vii. that as per the statement of the concerned IO, no other case/proceeding was pending against the petitioner/accused named above.*

Kindly, find enclosed, herewith, the duly attested copies of the statements dated 18.1.2024 of the complainant/victim and the petitioner/accused as well as the concerned Investigating Officer, namely ASI Suman, Belt no. 2797, P.S. Women, Central, Faridabad, for kind perusal, please.

Report submitted, please.

This is for your Honour’s kind information and necessary action, as desired, please.”

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 petitioner are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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.93 dated 11.03.2023 under Sections 376 of the Indian Penal Code, 1860, registered at Police Station Old Faridabad, District Faridabad and all consequent proceedings arising therefrom on the basis of compromise/affidavit, is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 12, 2024
Ajay

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