

138-B

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20314-2023 (O&M)

Date of Decision: 07.02.2024

Gurminder Pal Singh and another

Vs.

.. Petitioners

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aayush Gupta, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Bhavesh Aggarwal, Advocate for
Mr. Rajdeep Singh, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0031 dated 17.02.2021 under Sections 323, 346, 365, 448, 406, 34, 120-B of IPC, registered at Police Station Model Town, District Police Commissionerate, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), which is stated to have been effected between the parties.

2 On 26.04.2023, the following order was passed:

“The petitioners arraigned as accused in the FIR captioned below, have come up before this Court under Section 482 CrPC to quash the FIR and all consequential proceedings based on the compromise amicably arrived at with the victim(s).

Notice served upon the official respondent through the State's counsel. Counsel appearing for the private respondent states on instructions that there is no objection if the FIR and all consequent proceedings mentioned in this petition are quashed.

Given above, the petitioners and the private respondent, and all other victim(s), if not arraigned as

respondents, to appear before the concerned Trial Court/Illaq
Magistrate/Duty Magistrate **on or before 24.05.2023** for
getting their statements recorded with regard to the
compromise arrived at between them. Before recording their
statements, the Ld. Judge should ensure the following aspects
and send the report, in the following format, preferably before
the next date fixed in this court:

Name of the reporting Court	
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FIR No.	Dated	Police Station	Sections
31	17.02.2021	Model Town, District Police Commissionerate, Ludhiana	323, 346, 365, 448, 406, 34, 120-B IPC

Criminal Case no. before trial Court	
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1.	Names of the complainant/ victims(s)/ aggrieved persons(s)	
2.	Dates on which the statement(s) of the complainant/ victims(s)/ aggrieved persons(s) were recorded	
3.	Has the identity of the complainant/ victims(s)/ aggrieved persons(s) been verified?	Yes/No
4.	Whether all the victims/ all the aggrieved persons have compromised the matter?	Yes/No
5.	Is there pressure, threat, or coercion upon the victim(s)/aggrieved person(s)/complainant?	Yes/No
6.	Names of the accused person(s)	
7.	Dates on which the statement(s) of the accused persons(s) recorded	
8.	Whether all the accused have compromised the matter? If no, then the names of the accused who have compromised.	Yes/No

	against any accused?	
10	Has the police report been filed or not?	Yes/No
11	Notice of accusation /Charges have been framed or not?	Yes/No
12	Sections of statutes invoked in the matter	
13	Whether the court is satisfied with the genuineness of the compromise?	Yes/No

There would be no need for a certified copy of this order, and any Advocate for the Petitioner/State can download this order and other particulars as may be required, from the official web page of this Court, and attest it to be a true copy. The concerned court can also verify its authenticity and may download and use the downloaded copy for immediate use, if required.

List along with CRM-M-18821-2023 on 18.07.2023.”

3. Pursuant to the aforesaid order, report dated 26.05.2023 from ld JMIC, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

Name of the reporting Court	Kirandeep Singh, JMIC, Ludhiana
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FIR No.	Dated	Police Station	Sections
31	17.02.2021	Model Town, District Police Commissionerate, Ludhiana	323, 346, 365, 448, 406, 34, 120-B IPC

Criminal Case no. before trial Court	Final report under Section 173 Cr.P.C. Not filed yet
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1.	Names of the complainant/ victims(s)/ aggrieved persons(s)	Jaswinder Pal Singh (respondent No.2/complainant)
2.	Dates on which the statement(s) of the complainant/ victims(s)/ aggrieved persons(s) were recorded	24.05.2023

3.	Has the identity of the complainant/ victims(s)/ aggrieved persons(s) been verified?	Yes
4.	Whether all the victims/ all the aggrieved persons have compromised the matter?	Yes
5.	Is there pressure, threat, or coercion upon the victim(s)/aggrieved person(s)/complainant?	No
6.	Names of the accused person(s)	Gurminder Pal Singh (petitioner No.1), Girish Kumar (petitioner No.2), Ravinder Pal Singh @ Minka son of Avtar Singh.
7.	Dates on which the statement(s) of the accused persons(s) recorded	24.05.2023
8.	Whether all the accused have compromised the matter? If no, then the names of the accused who have compromised.	No. Accused Ravinder Pal Singh @ Minka has not come present to give statement qua compromise.

9.	Whether proclamation proceedings are pending against any accused?	No
10.	Has the police report been filed or not?	No
11.	Notice of accusation /Charges have been framed or not?	No
12.	Sections of statutes invoked in the matter	Sections 323, 346, 365, 406, 448, 34, 120-B of IPC (Sections 346, 448, 406, 34 IPC deleted later on)
13.	Whether the court is satisfied with the genuineness of the compromise?	Yes

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

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, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, 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 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) *The present matter does not fall within the exceptions as carved out in Laxmi Narayan's case (supra) i.e. heinous offence.*
- (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.0031 dated 17.02.2021 under Sections 323, 346, 365, 448, 406, 34, 120-B of IPC, registered at Police Station Model Town, District Police Commissionerate, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), is, hereby, quashed qua the petitioners.

07.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No