

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

135

CRM-M-21487-2023
Date of decision: 13.03.2024

ROHIT DAVIS

....PETITIONER

V/s

STATE OF UT CHANDIGARH AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arjun Veer Sharma, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. PP, UT, Chandigarh.

Mr. Piyush Sharma, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.89 dated 03.12.2021 under Sections 406 and 498-A of IPC, registered at Police Station, Women, District Chandigarh and all consequential proceedings arising therefrom on the basis of affidavit dated 21.03.2022 (Annexure P-2 and P-3), which is stated to have been effected between the parties.

2 On 29.04.2023, the following order was passed:

“The petitioner has filed the present petition seeking quashing of FIR No.89 dated 03.12.2021 under Sections 406 and 498-A of IPC, registered at Police Station Women, District Chandigarh, and all other proceedings arising therefrom on the basis of the compromise dated 21.03.2022 (Annexures P-2 and 3).

Notice of motion.

On asking of the Court, Mr. Rajiv Vij, Addl. PP, UT, Chandigarh, accepts notice on behalf of respondent No.1 and Piyush Sharma Advocate, accepts notice on behalf of respondent No.2 and filed his vakalatnama, which is taken on record.

Learned counsel for respondent No.2 has not denied the factum of compromise effected between the parties. Adjourned to 11.09.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 03.07.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his report rough learned Sessions Judge concerned on or before the date fixed efore this Court."

3. Pursuant to the aforesaid order, report dated 07.07.2023 from Judicial Magistrate, Ist Class, Chandigarh, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"Thereafter, accused Rohit Davis got recorded his separate statement that only he has been arrayed as accused in present FIR No. 89 dated 03.12.2021, registered U/s 406, 498 A IPC, Women Police Station, Sector-17, U.T. Chandigarh. There is only one complainant/victim Shareen Raichal in the present case/FIR. Now with the intervention of well wishers, common friends and respectable persons, he has amicably settled his dispute with the complainant namely Shareen Raichal vide compromise i.e. two affidavits dated 21.03.2022 as Ex. CA (colly.). This compromise has been fully effected which is genuine, voluntary and without any coercion and undue influence and is not the result of any fraud or misrepresentation and is the result of free Will. He reaffirmed the contents of compromise i.e. Ex. CA (colly.). There is no other criminal case pending in any court of law between them. Now he is residing happily with his wife Shareen Raichal at House No. 2287/29, Street no.1, near CMC hospital, near Mohar Singh Nagar, Ludhiana. He has never been declared proclaimed offender in any case/FIR in any court of law. Statement of ASI Padam Singh, no. 1825, posted at PP-24, U.T. Chandigarh also recorded wherein he stated that he is the IO in the present case. Only one accused namely Rohit Davis has been arrayed in the present FIR. There is only one complainant/victim Shareen Raichal in present case/FIR. As per record there is no pending or previous P.O. proceeding against abovementioned accused. No other trial/proceeding is pending against aforesaid accused in Women Police Station, Sector-17, Chandigarh. Since the matter has been compromised by the complainant with the accused without any pressure, coercion or threat from any side, who has no objection with

regard to quashing of FIR on the basis of compromise, therefore, compromise is complete, genuine, valid and good in the eyes of law. Therefore, report is thus submitted for your goodself's perusal."

4. Learned counsel for respondent No.2 admits the factum 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 that he has no objection in case the FIR is quashed based upon the affidavit (Annexure P-2 and P-3).

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.89 dated 03.12.2021 under Sections 406 and 498-A of IPC, registered at Police Station, Women, District Chandigarh and all consequential proceedings

arising therefrom on the basis of affidavit dated 21.03.2022 (Annexure P-2 and P-3), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

March 13, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No