

2024.PHHC.154688



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

CRM-M-41488-2017

Date of Decision- 01.08.2024

JASPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Inderjeet Singh, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 482 Cr.P.C. for quashing of impugned FIR No.47 dated 20.05.2015 (Annexure P-1), under Sections 497, 328, 120-B, 379 IPC registered at Police Station Division No.3, Ludhiana, District Ludhiana, with all consequential proceedings i.e. report under Section 173 Cr.P.C. (Annexure P-3), qua the petitioner on the basis of compromise effected between private respondents.

2. Factual matrix of the case succinctly stated are that as per the case of the prosecution, the petitioner has been hatching conspiracy with the wife of the complainant to kill the complainant wherein he caught his wife red handed while talking to the petitioner on the phone and alleging that the wife of the complainant in connivance with the petitioner had stolen his money as well as gold ornaments.

3. Learned counsel for the petitioner has contended that respondent No.2 is the complainant in the FIR and main allegations are against respondent No.3 who allegedly had stolen his money and ornaments and used to mix some substance in his food which made him drowsy all day long and in this view of the matter, petitioner has no role to play nor the petitioner is named by the complainant/respondent No.2 in his complaint. Further, now the private respondents No.2 & 3 have entered into a settlement/compromise (Annexure P-2) and as such, no fruitful purpose would be served to continue with the proceedings of FIR, Annexure P-1. Therefore, the impugned FIR is liable to be quashed qua the petitioner.

4. Learned counsel for the State has contended that investigations conducted by the police have revealed that the petitioner was the person with whom respondent No.3, used to talk on telephone in the absence of respondent No.2 and there is specific allegation by respondent No.2 against his wife that she used to mix something in his food due to which he was having long sleeps. It is indeed the petitioner who had provided mobile phone number 90237-27017 to respondent No.3 to talk with him on his mobile number 95696-957423. Further, in his reply filed by the Assistant Commissioner of Police (Central) Ludhiana has specifically stated that the compromise has been executed by the complainant only with respondent No.3 and not with the present petitioner and rather in the compromise itself, the complainant has specifically mentioned that there is no compromise with the present petitioner. Moreover, CRM-M-9485 of 2016 was preferred by respondent No.3 before this Hon'ble Court to seek quashing of FIR for her only and this Hon'ble Court was pleased to allow the said petition and quash FIR qua respondent

No.3 only, vide order dated 18.05.2016, Annexure P-6. Hence, this petition is liable to be dismissed on this ground.

5. Heard learned counsel for the respective parties and gone through the record.

6. On going through the case file, it is found that there are two accused in FIR who are respondent No.3 and the present petitioner. According to the challan, petitioner was in custody and challan was presented against him whereas challan was not presented against respondent No.3 because during investigation, respondents No.2 & 3 entered into compromise before the Mediation & Conciliation Centre of this Court. According to the terms and conditions of the said compromise, respondents No.2 & 3 have filed a petition Under Section 13-B of the Hindu Marriage Act, 1955, to seek decree of divorce by mutual consent. However, there is no evidence to show if petitioner was party to the mediation proceedings or had signed it nor can petitioner be a party to the mediation proceedings because the main culprit is the petitioner who enticed respondent No.3 to indulge into extra marital affair/activity which resulted into filing of divorce petition by respondents No.2 & 3 by way of mutual consent.

7. Further, there is no iota of truth in the representation on behalf of respondents No.2 & 3, which shows that they do not support the quashing of FIR qua petitioner on the basis of compromise.

8. In “***R.P. Kapur Versus State of Punjab; AIR 1960 SC 866***,” the Apex Court has discussed the scope of section 482 Cr.P.C., relevant portion whereof read as follows:-

“6. *It is no more res integra that exercise of power under [Section 482](#) CrPC to quash a criminal proceeding is*

only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under [Section 482 CrPC](#) is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under [Section 482 CrPC](#) for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.”

9. Also the scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in [State of Haryana v. Bhajan Lal \(1992 Supp \(1\) 335\)](#). A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows:

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not

disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code. (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. In view of the above discussed facts and the settled law discussed in R.P. Kapur supra) and Bhajan Lal's case (supra), this Court is of the considered view that as there is no compromise between respondent No.2 and the present petitioner so far, therefore the present petition as well as

subsequent proceeding i.e final report is not maintainable for quashing and accordingly, this petition fails being without merits.

11. Dismissed.

01.08.2024

Poonam Negi

(SANDEEP MOUDGIL)

JUDGE

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