

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-23763-2023 (O&M)

Date of decision: 21.03.2024

JAGPREET SINGH AND OTHERS

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amaninder Singh Sekhon, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Arshdeep Singh, Advocate for
Mr. Vikas Sonak, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.147 dated 16.10.2018 under Sections 498-A, 406 of IPC, registered at Police Station, Sadar, Faridkot, District Faridkot and all consequential proceedings arising therefrom on the basis of compromise affidavit of aggrieved person/prosecution witness dated 18.04.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 11.05.2023, the following order was passed:

“Prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR in question and all other consequential proceedings arising therefrom, on the basis of compromise, arrived at between the parties.

Notice of motion.

Mr. Jaiteshwar S. Bhandari AAG, Punjab, accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

At this stage, Mr. Vikas Sonak, Advocate has put in appearance on behalf of respondent No.2 and filed Power of Attorney, which is taken on record.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate as the case may be, on 31.05.2023 or any other date convenient to the parties, but not later than one week thereafter, for getting their statements recorded with regard to the compromise. The trial Court is directed to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 10.08.2023.”

3. Pursuant to the aforesaid order, report dated 09.06.2023 from Additional Chief Judicial Magistrate, Faridkot has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. I have the honour to submit that in compliance of the subject1 cited order dated 11-05-2023 passed by Hon'ble High Court in CRM-M- 23763-2023 titled as 'Jagpreet Singh and others versus State of Punjab and another', parties were directed to appear before this court on 31-05-2023 or any date convenient to the parties, but not later than one week thereafter, for getting their statements recorded with regard to the compromise.

2. It is submitted that the case was fixed for 31-05-2023 for recording statements and the accused party(i.e petitioners no.1 to 3 namely Jagpreet Singh, Nirmal Singh and Charanjit Kaur before Hon'ble High Court) have appeared but complainant(respondent no.2 Hardeep Kaur before Hon'ble High Court) did not turn up. Thereafter the case was fixed for 03-06-2023 for recording statement of parties. On that day, again petitioners appeared but complainant did not appear and then again the case was fixed for today i.e 07.06.2023 as today is the last day of one

week after 31-05-2023. Even today i.e 07-06-2023, again petitioner no.1 to 3 are present but the complainant has not turned up.

3. Accused persons namely (1) Jagpreet Singh (2) Nirmal Singh and (3) Charanjit Kaur (petitioners No.1 to 3 before Hon'ble High Court) have got recorded their statements that compromise effected between them is voluntarily, genuine, without any pressure and out of free will. They further stated that the complainant /respondent no.2 Hardeep Kaur has not turned up today nor on previous dates for getting her statement recorded as she is

adamant that first the divorce under section 13B be finalized then she will give her statement in the present case.

4. As the complainant namely Hardeep Kaur (respondent no.2 before Hon'ble High Court) did not appear before the Court for getting her statement recorded, so it cannot be said that compromise has been effected between parties.

5. Therefore, report along with statement of the accused party(petitioners no.1 to 3 before Hon'ble High Court) is humbly submitted before your goodself for kind perusal."

4. Pursuant to the aforesaid order, report dated 03.08.2023 from Additional Chief Judicial Magistrate, Faridkot has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"Complainant Hardeep Kaur has appeared and got recorded her statement that with the intervention of respectable persons of the society, compromise has been effected between the parties and therefore she does not want to proceed further with the present FIR. She further stated that the compromise is genuine, voluntarily and without any pressure. She has specifically stated that she is making her statement in the Court without any pressure or coercion and out of her free will. So she has got no objection if the present FIR and all other consequential proceedings arising therefrom are quashed. 3. In the same manner, accused namely Jagpreet Singh, Nirmal Singh and Charanjit Kaur (petitioners no.1 to 3 before Hon'ble High Court) have got recorded their statements that compromise effected between them is voluntarily, genuine, without any pressure and out of their free will. They have placed on record the notarized compromise effected between the parties as Ex.CX. Investigating officer namely ASI Kulwant Singh No.339 /FDK appeared before the Court and got recorded his statement that present FIR had been got registered by complainant Hardeep Kaur daughter of Jaimal Singh resident of village Kabalwala Tehsil and District Faridkot and there are three accused persons arrayed in the FIR and their names being Jagpreet Singh, Nirmal Singh and Charanjit Kaur. He further stated that there is only one victim/complainant namely Hardeep Kaur. He further stated that the accused are neither declared a proclaimed offenders nor they are involved in any other case. In view of the above said statements got recorded by the parties, it appears that they have voluntarily compromised the matter which is with their own sweet and discretion, without any pressure or coercion and the same appears to be genuine."

5. 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.

6. Similarly, learned State counsel has stated no objection in case

the FIR is quashed based upon the compromise (Annexure P-2).

7. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

8. 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.*

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) 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.*

10. Consequently, the petition is allowed. FIR No.147 dated 16.10.2018 under Sections 498-A, 406 of IPC, registered at Police Station, Sadar, Faridkot, District Faridkot and all consequential proceedings arising therefrom on the basis of compromise affidavit of aggrieved

person/prosecution witness dated 18.04.2023 (Annexure P-2), are, hereby,
quashed qua the petitioners.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 21, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No