

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24540-2024
Date of decision: 03.07.2024

SARVESH @ CHIKOO @ SARVESH CHAUHAN
....PETITIONER

V/s

STATE OF HARYANA AND OTHERS
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arihant Jain, Advocate with
Mr. Kanish Jindal, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Lalit Goyal, Advocate
for respondent No.2.

None for respondent No.3.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.330 dated 27.11.2023 under Section 346 of IPC (Sections 365, 376, 506, 406,201 of IPC were added and Section 346 of IPC was deleted later on), registered at Police Station, Mundkati, District Palwal and all consequential proceedings arising therefrom on the basis of affidavit dated 03.05.2024 (Annexure P-4), which is stated to have been effected between the parties.

2. On 16.05.2024, the following order was passed:

“This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.330 dated 27.11.2023 under Section 346 of IPC (Sections 365, 376, 506, 406, 201 of IPC were added and Section 346 of IPC was deleted later on), registered at Police Station Mundkati, District Palwal (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of compromise dated 03.05.2024 (Annexure P-2). Learned counsel for the petitioner, inter alia, contends that the petitioner and respondent No.2 had eloped out of love affair and

they performed marriage and now they are cohabiting together as husband and wife. The relationship between the petitioner and respondent No.2 was consensual and devoid of any mens rea. The proximity of the age between the petitioner and respondent No.2 must be given due consideration and a compassionate view be taken considering their young age and nature of circumstances. Reliance in this regard has been placed upon judgment of the Hon'ble Supreme Court passed in K. Dhandapani Vs. The State by The Inspector of Police, 2022 SCC Online SC 1056 and Full Bench judgment of the Delhi High Court passed in Court on its own motion (Lajja Devi) Vs. State, 2012 (4) CCR 72 as well as judgment of this Court in Narinder Kaur @ Ninder Kaur and others Vs. State of Punjab and others, passed in CRM-M41204-2020.

Notice of motion for 03.07.2024.

At this stage, on asking of the Court, Ms. Geeta Sharma, DAG, Haryana accepts notice on behalf of respondent No.1-State and Mr. Lalit Goyal, Advocate accepts notice for respondent No.2 and files his Vakalatnama, which is taken on record. Copy of the paper book be supplied to them during the course of day.

Service is complete.

In the meanwhile, the parties are directed to appear before the learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.”

3. Pursuant to the aforesaid order, report dated 03.07.2024 from District & Sessions Judge, Palwal has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“(1) In the present FIR only Sarvesh son of Bir Singh is arraigned as accused.

(ii) No accused has been declared proclaimed offender in the present FIR.

(iii) The compromise is genuine, voluntary and without any coercion or under influence. Statements of complainant victim, accused and Investigating Officer were recorded in this regard before undersigned.

(iv) The statement of Investigating Officer was recorded and he has stated that matter has been amicably settled between the parties without any pressure, undue influence, coercion etc. As per their record no other FIR has been registered against accused Sarvesh and complainant and no PO proceedings has been initiated against any of the parties i.e. accused and complainant.”

4. Learned counsel for respondent Nos.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 is 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 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. 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 CRM-M-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.330 dated 27.11.2023 under Section 346 of IPC (Sections 365, 376, 506, 406,201 of IPC were added and Section 346 of IPC was deleted later on), registered at Police Station, Mundkati, District Palwal and all consequential proceedings arising therefrom on the basis of affidavit dated 03.05.2024 (Annexure P-4), are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

July 03, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No