



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

208

**CRM-M-25057 of 2024
DATE OF DECISION :- 31.07.2024**

Chayan Malhotra and others **...Petitioners**

Versus

State of Union Territory, Chandigarh and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sunil Narang, Advocate for the petitioner.

Mr. P.S. Paul, Addl. P.P., U.T., Chandigarh.

Mr. Satyaveer Singh, Advocate
with Mr. Abhydaya, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 35 dated 02.02.2019 under Sections 406,498-A of IPC, registered at Police Station, Sector 17, U.T., Chandigarh and all consequential proceedings arising therefrom on the basis of compromise deed dated 21.03.2024 (Annexure P-3), which is stated to have been effected between the parties.

2. On May 27, 2024, the following order was passed:

“The petitioner has approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion.

At this stage, Mr.P.S. Paul, Addl.P.P., U.T., Chandigarh, has entered appearance and accepts notice on behalf of respondent No.1-State of U.T., Chandigarh. and accepts notice.

Mr.Ashish Pundir, Advocate for Mr. Satyaveer Singh, Advocate, has put in appearance on behalf of respondent No.2-Complainant. He seeks and is permitted time to file requisite vakalatnama in the Registry of this Court.



The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioners shall appear before the trial Court/Illaq Magistrate concerned on 08.07.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statements of the petitioners as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaq Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaq Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaq Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaq Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaq Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 31.07.2024."

3. Pursuant to the aforesaid order, report dated 24.07.2024 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:-



“A copy of orders dated 27.05.2024 passed by Hon'ble High Court of Punjab and Haryana, Chandigarh in CRM-M-25057-2024 & CRM-M No. 25213 of 2024 was received in this Court being Illaqa Magistrate, vide which this Court was directed to submit a report regarding the compromise after recording the statements of the parties and whether the compromise has been entered into voluntarily, without any threat or coercion and the same is genuine. Information whether any parties has been declared proclaimed offenders, proceedings report was also called for. The report in respect of CRM-M-25057-2024 & CRM-M No. 25213 of 2024 is as follows:

2. As per directions of Hon'ble High Court vide orders dated 27.05.2024, accused Chayan Malhotra appeared before the court on 08.07.2024 and got recorded his statement that he has arrayed as accused in FIR No. 35 dated 02.02.2019, registered under Sections 406, 498-A of IPC at Women Police Station Sector-17, Chandigarh. He heard the statement of the complainant which is correct. He has never been declared proclaimed offender. Now with the intervention of well wishers, common friends and respectable persons, he has amicably settled his dispute with the complainant Devanshi Duggal @ Devanshi Malhotra vide compromise deed dated 21.03.2024 and the same is already Ex. CA. This compromise has been effected which is genuine, voluntary in nature and without any coercion and undue influence. He is already on bail in the present case. There is no other case/FIR pending against him. He reaffirmed the contents of the compromise deed Ex CA. He prayed for quashing of the present FIR.

3. Accused Gulshan Malhotra appeared before the court on 08.07.2024 and got recorded his statement that he has arrayed as accused in FIR No. 35 dated 02.02.2019, registered under Sections 406, 498-A of IPC at Women Police Station Sector-17, Chandigarh. He heard the statement of the complainant which is correct. He has never been declared proclaimed offender. Now



with the intervention of well wishers, common friends and respectable persons, he has amicably settled his dispute with the complainant Devanshi Duggal @ Devanshi Malhotra vide compromise deed dated 21.03.2024 and the same is already Ex. CA. This compromise has been effected which is genuine, voluntary in nature and without any coercion and undue influence. He is already on bail in the present case. There is no other case/FIR pending against him. He reaffirmed the contents of the compromise deed Ex CA. He prayed for quashing of the present FIR.

4. Accused Ruby Malhotra appeared before the court on 08.07.2024 and got recorded his statement that she has arrayed as accused in FIR No. 35 dated 02.02.2019, registered under Sections 406, 498-A of IPC at Women Police Station Sector-17, Chandigarh. She heard the statement of the complainant which is correct. She has never been declared proclaimed offender. Now with the intervention of well wishers, common friends and respectable persons, she has amicably settled his dispute with the complainant Devanshi Duggal @ Devanshi Malhotra vide compromise deed dated 21.03.2024 and the same is already Ex. CA This compromise has been effected which is genuine, voluntary in nature and without any coercion and undue influence. She is already on bail in the present case. There is no other case/FIR pending against her. She reaffirmed the contents of the compromise deed Ex CA. He prayed for quashing of the present FIR.

5. Another petition has been filed in Hon'ble Punjab and Haryana High Court vide CRM-M-25213 of 2024 titled as Nishtha Malhotra Vs. State of U.T. & Anr. for quashing of the said order dated 05.10.2019. Accused Nishtha Malhotra appeared through her SPA Holder Sh. Gulshan Malhotra who got recorded his statement that he is Special Power of Attorney holder of Nishtha Malhotra. Nishtha Malhotra is her daughter. Nishtha Malhotra has been arrayed as accused in FIR No. 35



dated 02.02.2019, registered under Sections 406, 498-A of IPC at Women Police Station Sector-17, Chandigarh. He heard the statement of the complainant on behalf of Nishtha Malhotra which is correct. Nishtha Malhotra was declared as proclaimed person in aforesaid FIR vide order dated 05.10.2019 passed by the court of Ms. Mamta Kakkar, the then Id. JMIC, Chandigarh. Hon'ble High Court vide order dated 30.05.2024 has stayed the operation of order dated 05.10.2019. Copy of order is Ex. CB. Now with the intervention of well wishers, common friends and respectable persons, Nishtha Malhotra has amicably settled the dispute with the complainant Devanshi Duggal @ Devanshi Malhotra aged 33 years d/o Sh. Ashu Duggal, R/o SCF No. 15, Sector 22-D, Chandigarh vide compromise deed dated 21.03.2024 and the same is already exhibited as Ex. CA. This compromise has been effected which is genuine, voluntary nature and without any coercion and undue influence. There is no other case/FIR pending against Nishtha Malhotra. He reaffirmed the contents of the compromise deed Ex CA. Copy of Special Power of Attorney is Ex. CC. He prayed for quashing of the present FIR.

6. Complainant Devanshi Duggal @ Devanshi Malhotra appeared before the court on 08.07.2024 and got recorded her statement that that four accused namely Chayan Malhotra, Gulshan Malhotra, Ruby Malhotra and Nishtha Malhotra have been arrayed in present FIR No. 35 dated 02.02.2019, registered under Sections 406, 498-A IPC at Women Police Station Sector-17, U.T. Chandigarh. Now with the intervention of well wishers, common friends and respectable persons, She has amicably settled her dispute with the accused Chayan Malhotra, Gulshan Malhotra, Ruby Malhotra and Nishtha Malhotra vide compromise deed dated 21.03.2024 original of which is Ex. CA. She has no objection if FIR no. 35 dated 02.02.2019, registered under Sections 406, 498-A IPC at Women Police Station Sector-17, U.T. Chandigarh is quashed against the



above mentioned accused persons. In the said FIR accused Nishtha Malhotra was declared as proclaimed person vide order dated 05.10.2019 passed by the court of Ms. Mamta Kakkar, the then Id. JMIC, Chandigarh and she has no objection if the order dated 05.10.2019 is quashed Her marriage with Chayan Malhotra has also been dissolved by decree of divorce by mutual consent under Section 13-B of HMA vide judgment and decree dated 31.05.2024 (HMA no. 285 of 2024). She has received a sum of Rs. 60 lacs from Chayan Malhotra as full and final settlement amount as permanent alimony and maintenance. This compromise has been effected which is genuine, voluntary and without any coercion and undue influence. She reaffirmed the contents of the compromise deed Ex CA. She shall bound by the compromise deed Ex. CA.

7. ASI Sukhdev Singh no. 2962/CP appeared and got recorded his statement that he has been directed by the SHO police station WPS Sector-17, Chandigarh to appear and furnish the desired information as per order dated 27.05.2024 before the Court. As per record there is only complainant namely Devanshi Duggal @ Devanshi Malhotra. There are four accused namely Chayan Malhotra, Gulshan Malhotra, Ruby Malhotra and Nishtha Malhotra who have been arrayed as accused in present FIR. Accused Nishtha Malhotra was declared as proclaimed person in aforesaid FIR vide order dated 05.10.2019 passed by the court of Ms. Mamta Kakkar, the then Id. JMIC, Chandigarh. The petition has been filed in Hon'ble Punjab and Haryana High Court vide CRM-M-25213 of 2024 titled as Nishtha Malhotra Vs. State of U.T. & Anr. for quashing of the said order dated 05.10.2019. Hon'ble High Court vide order dated 30.05.2024 has stayed the operation of order dated 05.10.2019. The aforesaid accused persons have never been involved in any other case in WPS Sector-17, Chandigarh.



8. *Since the matter has been compromised by the complainant namely Devanshi Duggal @ Devanshi Malhotra. There are four accused namely Chayan Malhotra, Gulshan Malhotra, Ruby Malhotra and Nishtha Malhotra 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 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-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. 35 dated 02.02.2019 under Sections 406,498-A of IPC, registered at Police Station, Sector 17, U.T., Chandigarh and all consequential proceedings arising therefrom on the basis of compromise deed dated 21.03.2024 (Annexure P-3), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

31.07.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No