

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

CRM-M-26032 of 2023

DATE OF DECISION :- 01.03.2024

Sukhdev Singh @ Sukha and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Gaurav Singla, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Kapish Singla, Advocate
for Mr. Ashit Malik, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 167 dated 30.03.2027 under Sections 354-A(1), 323, 506, 34 of IPC, registered at Police Station, Pehowa, District Kurukshetra and all consequential proceedings arising therefrom on the basis of compromise/settlement dated 12.05.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 22.05.2023, the following order was passed:

“The petitioners through instant petition, on the basis of compromise, are seeking quashing of FIR No.167 dated 30.03.2017 (Annexure P-1), registered at Police Station Pehowa, District Kurukshetra, under Sections 354A(1), 323, 506 and 34 of IPC, 1860.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, DAG, Haryana and Mr. Ashit Malik, Advocate accept notice on behalf of

respondent No. 1 State and respondent No. 2 respectively.

Power of attorney of respondent No.2 is taken on record.

Parties may appear before learned trial Court/Illaq Magistrate concerned on 27.05.2023 or any other date convenient to said Court and get their statements recorded with regard to compromise. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report disclosing:

i) genuineness and voluntary nature of compromise ;

ii) how many persons are nominated in FIR/police report;

iii) how many accused/victims out of total accused/victims have entered into compromise;

iv) if there is partial compromise, what is role of the accused;

v) what is stage of trial, if accused already convicted, whether appeal is pending in Appellate Court;

vi) whether all accused/petitioners are appearing before the Court or are on bail; and

vii) whether any other proceeding is pending against the accused/petitioner.

Adjourned to 13.07.2023.”

3. Pursuant to the aforesaid order, report dated 14.06.2023 from Sub Divisional Judicial Magistrate, Pehowa has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I. Compromise appears to be genuine, without any pressure or undue influence.

II. FIR was registered against accused Sukhdev Singh @ Sukkha, Pawan, Malwinder Singh @ Malli and 3-4 unknown persons.

III. Five accused out of total six accused namely Sukhdev Singh @Sukkha, Malwinder Singh, Baj Singh @ Gurbaj Singh, Jasdev Singh @ Jass and Joga Singh have entered into compromise. It is pertinent to mention that remaining one accused Pawan Kumar died during the proceedings on

28.09.2022 and proceedings against him were dropped vide order dated 15.02.2023. Further, there is only one complainant/victim namely Geeta Rani.

IV. The compromise is not partial, but has been entered between all the parties.

V. The case is at the stage of prosecution evidence.

VI. All the five accused are on bail and appearing before the Court.

VII. Accused Malwinder Singh, Sukhdev Singh and Jasdev Singh are facing trial in other cases apart from the present case and list of pending cases against them is Annexure A which is enclosed with the report."

4. Learned counsel appearing 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-2).

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

7. This Court and 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 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. 167 dated 30.03.2027 under Sections 354-A(1),323,506,34 of IPC, registered at Police Station, Pehowa, District Kurukshetra and all consequential proceedings arising therefrom on the basis of compromise/settlement dated 12.05.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

01.03.2024
P.Singh

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