

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

287

CRM-M-25973-2023
Date of decision: 06.03.2024

ROHIT KUMAR**....PETITIONER****V/s****STATE OF PUNJAB AND OTHERS****....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr.Gaurav Partap, Advocate, for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Suneet S. Deol, Advocate for
Mr.Virender Partap Singh, Advocate
for respondent Nos.2 and 3.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0128 dated 31.07.2022 under Section 363, 366 of IPC, registered at Police Station, Division No.2, District Pathankot and all consequential proceedings arising therefrom on the basis of compromise dated 31.01.2023 (Annexure P-3), which is stated to have been effected between the parties.

2. On 23.01.2024, 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. Adhiraj Singh Thind, AAG, Punjab, has put in appearance on behalf of respondent No.1-State and accepts notice.

Mr. Virender Partap Singh, Advocate has appeared and filed vakalatnama on behalf of respondents No. 2 and 3. The same be taken on record.

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

(i) The petitioner shall appear before the trial Court/Illaq Magistrate concerned on 29.01.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statements of the petitioner 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/Illaqa 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. 28.02.2024.”

3. Pursuant to the aforesaid order, report dated 13.02.2024 from Judicial Magistrate Ist Class, Pathankot has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I have the honour to submit that vide order dated 23.01.2024 passed by Hon'ble Punjab & Haryana High Court in CRM-M-25973-2023 titled as Rohit Kumar Vs. State of Punjab & others, the parties were directed to appear before the Trial Court for recording their statements with regard to compromise/settlement on 29.01.2024 or any other date convenient to the Court and this Court was also directed to send the report before the next date of hearing i.e. 28.02.2024 containing the information as to whether all the affected parties have entered into a compromise and as to whether the compromise in question found to be a valid compromise and has been effected without there being any kind of influence or coercion; whether there is any other accused other than the petitioners, arrayed in the petition; whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition and whether any accused has been declared Proclaimed Offender.

On 03.02.2024, complainant Hari Ram son of Rattan Lal, resident of Old Sabzi Mandi, Pathankot, District Pathankot with counsel with Shri Akshit Guleria, Advocate appeared and suffered separate statement that he is the complainant of this case and the present FIR bearing no.128 dated 31.07.2022 under Ss. 363, 366 of IPC has been registered by him against Rohit Kumar. He has entered into a compromise with the said accused, as petitioner Rohit Kumar and respondent no.3/victim have performed marriage on 20.11.2022 who are living together as husband and wife, following which they have

filed a petition bearing No.CRM-M-25973 of 2023 under S.482 Cr.P.C. for quashing of the said FIR before the Hon'ble Punjab and Haryana High Court, Chandigarh. He has also that he has entered into compromise with his free consent without any force and fraud as they have mutually settled all their disputes. He has no objection if the present FIR is quashed qua the accused for all the intents and purposes. Copy of his Aadhar card is Mark- B.

Similarly, victim Karuna, daughter of complainant Hari Ram has also appeared and suffered similar separate statement. She also has no objection if the present FIR is quashed qua the accused for all the intents and purposes. Copy of her Adhar card is Mark-A.

Likewise, accused/petitioner Rohit Kumar also appeared and suffered similar statement (attached). Copy of his Adhar card is Mark-C.

ASI Ramesh Kumar, No.1262/Ptk, Police Station Division no.2, Pathankot also appeared and suffered a separate statement that there is only one accused namely Rohit Kumar. Hari Ram is the complainant whereas Karuna is the victim in this case. Accused has not been declared as proclaimed offender.

Keeping in view all aspects and statements of the complainant Hari Ram, Victim Karuna and the appearing accused, compromise effected between the parties appears to be valid, voluntary and without any coercion. Point-wise report of undersigned is as follows:-

(i) There is no other accused except accused namely Rohit Kumar.

(ii) There is no other complainant/affected party except the respondents, arrayed in the petition.

(iii) Accused has not been declared as proclaimed offender.”

4. Learned counsel appearing for respondent Nos.2 and 3 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-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. 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.0128 dated 31.07.2022 under Section 363, 366 of IPC, registered at Police Station, Division No.2, District Pathankot and all consequential proceedings arising therefrom on the basis of compromise dated 31.01.2023 (Annexure P-3), are, hereby, quashed qua the petitioner.

March 06, 2024

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Whether speaking/reasoned:

Whether reportable:

(SUMEET GOEL)

JUDGE

Yes/No

Yes/No