

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

**CRM-M-27070 of 2023
DATE OF DECISION :- 19.01.2024**

Mandeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. A.S. Gill, Advocate for the petitioner.

Mr. Hemant Aggarwal, AAG, Punjab.

Mr. F.S. Virk, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 100 dated 15.12.2022 under Section 376 of IPC, registered at Police Station, Kotli Surat Mallian, District Batala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 22.02.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 26.05.2023, the following order was passed:

“The petitioner has filed the present petition seeking quashing of FIR No.100 dated 15.12.2022 under Section 376 of the Indian Penal Code,1860, registered at Police Station Kotli Surat Mallian, District Batala (Annexure P-1), and all other subsequent proceedings arising therefrom, on the basis of the compromise dated 22.02.2023 (Annexure P-2).

Notice of motion.

On the asking of Court, Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of respondent No.1-State. Learned State Counsel has vehemently opposed the present petition and on instructions from ASI Rajwinder Singh, submits that the petitioner is out of India and the compromise is sought only on the basis of affidavit

filed by the complainant. He vehemently submits that the complainant be put to task and in case, she has executed this affidavit under any coercion or compulsion, the same also needs to be looked into.

Mr. F.S. Virk, Advocate has put in appearance and filed his Vakalatnama on behalf of respondent No.2, which is taken on record.

It is a very strange case that FIR under Section 376 IPC are lodged without even going into the fact as to whether the ingredients are met or not and the complainant herein, despite admitting that she was in a consensual relationship for more than 2 years with the petitioner, chooses to lodge this FIR without any medical evidence or cogent proof. The irony is that for some amount to be paid to the complainant by the petitioner, the matter is settled. It apparently looks that it has become a routine to blackmail the persons by lodging such FIR under Section 376 IPC and what is happening is that some genuine cases are looked upon in a very negative way, which needs to be looked into.

Accordingly, respondent No.2 is directed to present in Court on the next date of hearing.

Adjourned to 24.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 24.07.2023 or any other date, as the Court below may decide or fix, for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned.

Since, the petitioner is out of India, he is permitted to get his

statement recorded through video conferencing, however, he will also remain present in Court on the next date of hearing, failing which this petition will be dismissed.”

3. Pursuant to the aforesaid order, report dated 29.07.2023 from Judicial Magistrate Ist Class, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1)Number of persons arrayed as accused in the FIR.

On this count, it was submitted by the investigating officer that bi the present FIR there is only one accused namely Mandeep Singh son of Ram Dass in the present petitioner.

2) Whether any accused is a proclaimed offender or involved in any other FIR.

According to the statement of the investigating officer, accused has not been declared as proclaimed offender person nor he has involved in any other FIR.

3) Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Petitioner accused Mandeep Singh son of Ram Dass deposed through VC and complainant respondent no. 2 Ramandeep Kaur deposed in the Court along with their respective Advocates and stated in unison that they have entered into a compromise without any extraneous influence, coercion and on their own volition. The complainant respondent no. 2 Ramandeep Kaur stated in specific terms that she had no objection if the quashing proceedings filed by the petitioner accused is accepted. Both the parties were identified by their respective Advocates.

The respondents complainant and petitioner/accused were asked to show their identity cards and photocopies of the same were taken on record (Photocopies of identity cards and statements attached herewith).

Therefore, from the statements of the parties, it appears that compromise entered into between the parties is genuine, voluntary and out of free will.

4.) Number of victims/complainant in the present FIR.

As per the statement of 10, there is only one complainant/victim namely Ramandeep Kaur in the instant FIR Report is submitted accordingly.”

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 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 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. 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 Cr.MMO No. 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. 100 dated 15.12.2022 under Section 376 of IPC, registered at Police Station, Kotli Surat Mallian, District Batala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 22.02.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

19.01.2024
P.Singh

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