

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-27454-2024
Date of decision: 02.08.2024

KHEMCHAND AND ORS

....PETITIONERS

V/s

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sagar Dangi, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Dhruv Kaushik, Advocate
for respondents No.2 and 3.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.208 dated 18.09.2017 under Sections 506, 354, 34, 323, 147, 148 of IPC, registered at Police Station Bawal, District Rewari and all consequential proceedings arising therefrom on the basis of compromise dated 15.05.2024 (Annexure P-2), which is stated to have been effected between the parties.
2. On 28.05.2024, the following order was passed:
- “This petition has been filed for quashing of FIR No.208 dated 18.09.2017 registered under Sections 506, 354, 34, 323, 147, 148 of IPC at Police Station Bawal District Rewari along with all consequential proceedings arising therefrom, on the basis of compromise dated 15.05.2024 (Annexure P-2) arrived at between the parties.*
- Counsel for the petitioner has mentioned in memo of parties of the petition that the petitioners have not been declared as proclaimed persons.*
- Notice of motion.*
- Mr. Arjun Lakhanpal, Addl. A.G. Haryana accepts notice on behalf of respondent No.1-State and Mr. Dhruv Kaushik, Advocate accepts notice on behalf of respondent No.2 and has filed his*

vakalatnama. The same is taken on record. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 02.07.2024 or any other future date as per its convenience or on request of the parties for getting their statements recorded with regard to the compromise. However, it is made clear that no further adjournment shall be granted to the parties for that purpose. The Illaqa/Duty Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/proclaimed person(s), in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings pending;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. Whether any other criminal case pending against the accused. Report of Illaqa/Duty Magistrate be awaited for 02.08.2024.”*

3. Pursuant to the aforesaid order, report dated 16.07.2024 from Judicial Magistrate Ist Class, Bawal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“File has been taken up on 02.07.2024 upon an application for recording statements of parties regarding compromise alongwith copy of order dated 28.05.2024 passed by the Hon'ble Punjab and Haryana High Court for recording the statements of parties.

2. In compliance of Hon'ble High Court's order dated 28.05.2024, complainant/victim- Naveen Kumar s/o Sh. Ishver Singh and Smt. Indu W/o Naveen Kumar appeared before the Court. Their counsel namely Shri Jai Kishan Dhillon, Advocate is also present before the Court. Statement of complainant/victim- Naveen Kumar and Smt. Indu has been recorded wherein they stated that they have entered into a compromise in the present matter with the accused persons out of their own free will and without any pressure, fear, coercion and greed. They have also been questioned about the compromise to which they replied that they are not under any kind of pressure and have compromised the matter with the accused voluntarily. Separate/individual statements of accused namely Khem Chand S/o Sh. Chaju Ram, Smt. Prem W/o Khem Chand, Suresh Kumar S/o Sh. Khem Chand, Sandeep S/o Sh. Khem Chand, Smt. Pushpa W/o Suresh, Satpal S/o Sh. Meer Singh also recorded wherein they stated that they have entered into a compromise with the complainant/victim- Naveen

Kumar and Smt. Indu out of their own free will or without any undue influence, fear, coercion or greed There is no conflict between them.

3. As per the statement and report dated 08.07.2024 of Investigating Officer namely HC Mahipal, there is no other case registered against accused Khem Chand, Smt. Prem, Suresh Kumar, Sandeep, Smt. Pushpa and Satpal and none of the accused has been declared as proclaimed offender. The matter has been compromised between the parties. There is only two complainant/victim namely Naveen Kumar and Smt. Indu in the present case. There were total nine accused in the present case, out of which three persons were put in column No. 12 as no incriminating evidence found against them.

4. From the statements of parties recorded today as well as from the oral enquiry being made by the Court from the parties, it appears that they voluntarily entered into compromise without any kind of pressure, fear, coercion and greed. There are six persons arrayed as accused in the present FIR.

5. As per the report of 1.0./HC Mahipal following criminal cases are pending against the accused person:-

1. Khem Chand S/o Sh. Chaju Ram

(i) FIR No. 158 dated 29.09.2000, U/s 323, 324, 34 IPC, PS Bawal,

(ii) FIR No. 126 dated 30.06.2012, U/s 148, 149, 323, 452, 436 IPC, PS Bawal.

(iii) FIR 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal (Present FIR)

2. Smt. Prem W/o Khem Chand

(i) FIR No. 126 dated 30.06.2012, U/s 148, 149, 323, 452, 436 IPC, PS Bawal.

(ii) FIR No. 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal. (Present FIR)

3. Suresh Kumar S/o Sh. Khem Chand

(i) FIR No. 126 dated 30.06.2012, U/s 148, 149, 323, 452, 436 IPC, PS Bawal.

(ii) FIR 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal. (Present FIR)

4. Sandeep S/o Sh. Khem Chand,

(i) FIR No. 126 dated 30.06.2012, U/s 148, 149, 323, 452, 436 IPC, PS Bawal.

(ii) FIR No. 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal. (Present FIR)

5. Smt. Pushpa W/o Suresh Kumar

(i) FIR No. 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal. (Present FIR)

6. Satpal S/o Sh. Meer Singh

(i) FIR No. 126 dated 30.06.2012, U/s 148, 149, 323, 452, 436 IPC, PS Bawal.

(ii) FIR No. 208 dated 16.09.2017, U/s 147, 148, 323, 354, 506, 325, 379 of IPC, PS Bawal. (Present FIR)

6. None of the accused has been declared as proclaimed person.”

4. Learned counsel for respondents No.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 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 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.208 dated 18.09.2017 under Sections 506, 354, 34, 323, 147, 148 of IPC, registered at Police Station Bawal, District Rewari and all consequential proceedings arising therefrom on the basis of compromise dated 15.05.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

August 02, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No