

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

**CRM-M-28379 of 2023
DATE OF DECISION :- 12.01.2024**

Bharat Kumar

...Petitioner

Versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Lekh Raj Sharma, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Abhikant Vats, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 161 dated 21.12.2019 under Sections 34, 406, 498-A and 509 of IPC, registered at Police Station, Women West Gurugram, District Gurugram and all consequent proceedings arising therefrom on the basis of compromise/statement dated 17.04.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 02.06.2023, the following order was passed:

“Prayer in this petition is for quashing of the FIR No.161 dated 21.12.2019, under Sections 34, 406, 498-A and 509 of IPC, registered at Police Station Women West Gurugram, District Gurugram (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise dated 17.04.2023 (Annexure P-2).

Notice of motion.

On asking of the Court, Mr. Brijesh Sharma, AAG, Haryana, accepts notice on behalf of respondent No.1 and Mr. Sharma Raj Kumar Mangal Sain, has put in appearance on behalf of

respondent No.2 and filed his vakalatnama, which is taken on record.

Learned counsel for respondent No.2 has not denied the factum of compromise effected between the parties.

Adjourned to 16.10.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 24.07.2023 or any other date fixed by the Court below, 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 (petitioners) 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 on or before the date fixed before this Court.

3. Pursuant to the aforesaid order, report dated 27.07.2023 from Chief Judicial Magistrate, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“4. In view of statements of the complainant, accused and the investigating officer, this Court make the following report that:

a) Respective statements of both the parties with regard to the genuineness/correctness of the compromise have been recorded. As per the statement of the parties, the compromise effected between them is genuine, voluntary and not the result of any fraud or misrepresentation and same is out of the free will of the parties.

b) As per the statement of the investigating officer, at present besides the accused Bharat Kumar, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.”

4. Learned counsel for respondents 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, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, 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 wise 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) *The present matter does not fall within the exceptions as carved out in Laxmi Narayan's case (supra) i.e. heinous offence.*
- (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. 161 dated 21.12.2019 under Sections 34, 406, 498-A and 509 of IPC, registered at Police Station, Women West Gurugram, District Gurugram and all consequent proceedings arising therefrom on the basis of compromise/statement dated 17.04.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

12.01.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No