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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28666-2023 (O&M)

Date of Decision: 06.03.2024

Kanav Aggarwal

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Inderpreet Singh Kooner, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Divij Datt, Advocate for
Ms. Shruti Sharma, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.144 dated 22.09.2014 registered under Sections 406, 498-A, and 420 of IPC at Police Station Women Cell, District Patiala and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 09.05.2023 (Annexure P-3), which is stated to have been effected between the parties. Further, the petitioner is seeking quashing of judgement of conviction dated 30.11.2021 (Annexure P-2).

2 On 16.01.2024, the following order was passed:

*“Prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.144 dated 22.09.2014 registered under Sections 406, 498-A, and 420 of IPC at Police Station Women Cell, District Patiala (Annexure P-1) and all the consequential proceedings arising thereof including the judgment of conviction(Annexure P-2) dated 30.11.2021 titled as State V/s Kanav Aggarwal and Anr. on the basis of compromise (Annexure P-3).
Notice of motion.*

At this stage, Ms. Shruti Sharma, Advocate, accepts notice on behalf of the complainant/respondents No.2 and has filed power of attorney which is taken on record. She has admitted the correctness of compromise (Annexure P-3) and stated that she has no objection if this petition is allowed.

On the asking of this Court, Mr. Jaiteshwar S. Bhandari, AAG, Punjab accepts notice on behalf of the State and submits that it appears that there was some matrimonial dispute between the parties and the same is now been resolved and reply filed by the State counsel is already there on record.

*So, the parties are directed to appear before the learned trial court/Illaqa Magistrate on **25.01.2024** or any other date convenient to the trial Court/Illaqa Magistrate and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaqa Magistrate, is directed to send the same along with his report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts :-*

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

*To come up on **06.03.2024** for awaiting the report.*

A copy of this order be sent to the learned trial Court/Illaqa Magistrate, through electronic mode, for compliance.”

3. Pursuant to the aforesaid order, report dated 20.02.2024 from 1d.

JMIC, Patiala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“3. Further trial Court is to submit a report containing the following information as desired:

- i) Number of persons arrayed as accused in the FIR?*

It is respectfully submitted that in FIR no.144 dated 22.09.2014 under Sections 406, 498A, 420 IPC, P.S.Women Cell, Patiala, two persons namely Kanav Aggarwal and Ram Aggarwal arrayed as accused but vide Judgment dated 30.11.2021, accused Ram Aggarwal was acquitted whereas accused Kanav Aggarwal was convicted in the present case.

- ii) Whether any accused is proclaimed offender.?*

In this regard, it is respectfully submitted that as per the statement of ASI Narinder Kaur, 10 no accused was proclaimed offender in this case.

- iii) Stage of the trial/proceedings.*

It is respectfully submitted that the present case has already been disposed on 30.11.2021 and vide detailed Judgment of even date, accused Kanav Aggarwal was

convicted whereas accused Ram Aggarwal was acquitted and in this regard appeal is pending in the Court of Sh. Jaspinder Singh, Learned Additional Sessions Judge, Patiala.

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

It is respectfully submitted that the compromise is genuine, voluntary and without any coercion or undue influence as per the statements of complainant as well as accused.”

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 are 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 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 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.144 dated 22.09.2014 registered under Sections 406, 498-A, and 420 of IPC at Police Station Women Cell, District Patiala and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 09.05.2023 (Annexure P-3) as also judgement of conviction dated 30.11.2021

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

06.03.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No