

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

CRM-M-30718 of 2022

DATE OF DECISION :- 23.01.2024

Sameer Awasthi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Navdeep Kalair, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Gagan Bajaj, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 148 dated 28.11.2021 under Sections 323,406,498-A of IPC, registered at Police Station Sector 20, Panchkula and all consequent proceedings arising therefrom on the basis of compromise dated 06.06.2022 (Annexure P-2), which is stated to have been effected between the parties.

2. On 01.10.2022, the following order was passed:

“Adjourned to 29.3.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 15.12.2022 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/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 30.01.2023 from Judicial Magistrate First Class, Panchkula has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. This court is convinced that the compromise between the complainant and the accused is genuine and voluntary as it is not the result of any undue influence or pressure in any manner and is out of their free will. The complainant and the accused have maintained uniformity in regard to the validity of compromise.

2. As per statement of parties present and the challan and the report of Investigating Officer, there is one accused facing trial in this case and he has suffered his statement. With regard to the point as to whether the accused has been declared proclaimed offender, it is submitted that the facts and circumstances of the present case and the report of Investigating Officer signify that he has not been declared Proclaimed Person or Proclaimed Offender by any court of law in any other case.

Hence, the detailed report is submitted for your kind perusal and information please ”

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, 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. 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. 148 dated 28.11.2021 under Sections 323,406,498-A of IPC, registered at Police Station Sector 20, Panchkula and all consequent proceedings arising

therefrom on the basis of compromise dated 06.06.2022 (Annexure P-2), is,

hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

23.01.2024
P.Singh

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