

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CRM-M-29272-2023
Date of decision: 22.03.2024

SATNAM SINGH AND ORS

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Himani Kapila, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Sudhir Hooda, Advocate for
Mr. Sushant Gupta, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.38 dated 28.04.2023 under Sections 406 & 498-A, 120-B of IPC, registered at Police Station, Sadar Gurdaspur, District Gurdaspur and all consequential proceedings arising therefrom on the basis of compromise dated 26.05.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 25.08.2023 the following order was passed:

“This application has been moved on behalf of the applicants-petitioners with a prayer to grant one more effective opportunity to respondent No.2 to get her statement recorded in pursuance of the compromise Annexure P-2. Notice in the application. At the asking of the Court, Mr. Iqbal Singh Mann, learned Deputy Advocate General, Punjab, accepts the notice on behalf of respondent No.1-State and Mr. Sushant Gupta, Advocate, has also put in appearance on behalf of respondent No.2 in this case and has submitted his Power of Attorney in the Court and the same is taken on the record and both of them submit that

they have no objection in allowing the present application. Keeping in view the above-said fact as well as the reasons as mentioned in the instant application, the same is allowed and the parties are again directed to appear before the Illaqa Magistrate/trial Court on 28.09.2023 for recording their statements in respect of the compromise stated to have been arrived at between them. It is clarified here that petitioner No.1-Satnam Singh has filed the main petition through his Special Attorney but learned counsel for the applicants-petitioners submit that the said petitioner has, now, returned from Muscat and is very much available at his native place. Therefore, instead of the statement of his Special Attorney, the statement of petitioner No.1 himself be recorded on the aforesaid. The Illaqa Magistrate/trial Court shall submit the report on or before the date as already fixed in the main petition, i.e 03.11.2023, specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise:*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case:*
- 3. the name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.”

3. Pursuant to the aforesaid order, report dated 11.07.2023 from Judicial Magistrate Ist Class, Gurdaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reference to subject cited, I have the honour to submit that vide order dated 02.06.2023, passed by Hon'ble High Court in CRM-M- 29272 of 2023 in case titled as Satnam Singh and others vs State of Punjab and another, Hon'ble High Court was pleased to direct the Area Magistrate/Trial Court to record statements of parties regarding genuineness of the compromise Keeping in view of the spirit of order aforementioned, statements of the parties i.e. petitioners Satnam Singh (through his mother Paramjit Kaur Special Power of Attorney holder), Paramjit Kaur and Jagroop Singh were recorded, in which, they have stated that FIR No.38 dated 28.04.2023 under Sections 406, 498-A, 120- B of IPC was registered at Police Station Sadar Gurdaspur against them at the instance of complainant Jasbir Kaur wife of Satnam Singh daughter of

Bhagwan Singh, resident of Village Lakhawal, Tehsil and District Gurdaspur and the matter had been amicably resolved between them with the intervention of respectables of the society and the said compromise was voluntary and free from any threat, pressure or undue influence and they prayed that said FIR may please be quashed. They also produced their Aadhar Cards, which were proved as Ex.A1, Ex.A3 & Ex.A4 and copy of Special Power of Attorney Ex.A2. Thereafter, St Satpal Singh suffered statement that he is the Investigating Officer of FIR No.38 dated 28.04.2023, under Sections 406, 498-A, 120-B of IPC registered at Police Station Sadar Gurdaspur on the statement of Jasbir Kaur wife of Satnam Singh daughter of Bhagwan Singh, resident of Village Lakhawal, Tehsil and District Gurdaspur (complainant) against accused/petitioners and he had identified accused/petitioners in the Court. However, complainant Jasbir Kaur did not come present to get record her statement. So, no report regarding genuineness of compromise, if any, between the parties can be submitted. However, it is further submitted that as per the statement of Investigating Officer SI Satpal Singh that present FIR was registered against only three accused persons namely, Satnam Singh, Paramjit Kaur & Jagroop Singh and no proclamation proceedings were initiated against any of accused. The 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 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. 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.38 dated 28.04.2023 under Sections 406 & 498-A, 120-B of IPC, registered at Police Station, Sadar Gurdaspur, District Gurdaspur and all consequential proceedings arising therefrom on the basis of compromise dated 26.05.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

March 22, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No