

300

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29414-2023 (O&M)
Date of Decision: 30.01.2024

MANOJ KUMAR AND OTHERS

.. Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. K.S. Brar, Advocate for the petitioners.
Mr. Hemant Aggarwal, AAG, Punjab.
Mr. Inderjeet Singh Brar, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.36 dated 04.02.2020 under Sections 498-A, 406, 323, 506 and 34 of IPC, registered at Police Station Nathusari Chopta, District Sirsa and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 08.05.2023 (Annexures P-2 and P-3), which is stated to have been effected between the parties.

2 On 02.06.2023, the following order was passed:

*“Prayer in the present petition under Section 482 Cr.P.C. for quashing of FIR in question and all other consequential proceedings arising therefrom, on the basis of compromise, arrived at between the parties.
Notice of motion.
Mr. J.S.Bhandari, AAG, Punjab, accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.
At this stage, Mr. Inderjeet Singh Brar, Advocate has put in appearance on behalf of respondent No.2.
Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.
Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 12.07.2023 or any other*

date convenient to the parties, but not later than one week thereafter, for getting their statements recorded with regard to the compromise. Trial Court is directed to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.

Report be sent through District and Sessions Judge before the next date of hearing.

Adjourned to 25.07.2023.

Learned Counsel for the petitioners shall file the amended memo of parties in the meantime.”

3. Pursuant to the aforesaid order, report dated 20.07.2023 from 1d. JMIC, Sirsa has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“After recording the statements of the parties, this Court is satisfied that compromise is genuine, voluntarily, without any coercion or undue influence. The compromise has been effected with free will of the parties. The accused above named are on bail in this case. There are three accused (Des Raj, Krishana and Manoj) in present case and one complainant/victim i.e Somwati. Perusal of the case file shows that the case was fixed for prosecution evidence vide order dated 6.07.2023. As per the statement of SI Subhash Chander posted at PS N.S.Chopta, accused above named were also not declared proclaimed offender. Report to the Hon'ble Punjab and Haryana High Court, Chandigarh would be sent separately in terms of above said or- der dated 02.06.2023 Now case is adjourned to 19.08.2023 for awaiting further order from the Hon'ble High Court.”

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 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***

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

- (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.36 dated 04.02.2020 under Sections 498-A, 406, 323, 506 and 34 of IPC, registered at Police Station Nathusari Chopta, District Sirsa and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 08.05.2023 (Annexures P-2 and P-3), is, hereby, quashed qua the petitioners.

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

30.01.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No