

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1.CRM-M No.30902 of 2023
Date of decision : 8.8.2024

Gagandeep SinghPetitioner
Versus
State of Punjab and anotherRespondents

2.CRM-M No.51203 of 2021

Gagandeep SinghPetitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Suvir Sidhu, Advocate and
Mr. Mandeep Singla, Advocate for the petitioner

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Kartik Bansal, Advocate, for respondent No.2

SUMEET GOEL, J. (ORAL)

1. Present petition (CRM-M No.51203 of 2021) has been filed under Section 482 Cr.P.C. read with Article 226 of the Constitution of India for quashing of FIR No.21 dated 29.5.2019, under Sections 406, 498-A IPC, registered at Police Station NRI, SAS Nagar, and Extradition Challan dated 27.5.2021 bearing no.CHI/314/2021, Mohali, and all subsequent proceedings arising therefrom.



Another petition (CRM-M No.30902 of 2023) has been filed seeking quashing of order dated 18.05.2023, passed by Judicial Magistrate Ist Class, SAS Nagar, in the aforesaid FIR, wherein the prayer made by the petitioner (herein) to travel abroad (New Zealand) to meet his minor daughter, has been declined.

2 On 01.08.2024, the following order was passed:

“Learned counsel for the petitioner as also learned counsel for respondent No.2 are ad idem that an amicable settlement has been arrived at between the parties and the terms have been reduced into writing vide a deed of compromise dated 20.05.2024.

Learned counsel for the petitioner as also learned counsel for respondent No.2 are ad idem that the FIR may be quashed in terms of the settlement arrived at between the parties.

Keeping in view the totality of facts and circumstances of the case, the parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioner shall appear before the trial Court/illaqa Magistrate concerned on 06.08.2024 or any date thereafter as fixed by trial Court/Illaqa Magistrate for recording statements of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaqa Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the



statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion. The trial Court/Illaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

- (i) Whether there is any other accused other than the petitioners, arrayed in this petition?*
- (ii) Whether there is any other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition?*
- (iii) Whether any accused has been declared Proclaimed Offender?*

The respondent No.2 shall be at liberty to appear through Video conferencing.

At this stage, learned counsel for the petitioner has submitted that the petitioner is required to travel to New Zealand on 11.08.2024 in order to attend a Court hearing therein.

In the interest of justice, the concerned Court is directed to send a report to this Court by 08.08.2024 through a special messenger.”

3. Pursuant to the aforesaid order, report dated 07.08.2024 from Judicial Magistrate, Ist Class, SAS Nagar, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“By considering the statements of the complainant Supinder Kaur Dhanoa, accused Gagandeep Singh and ASI Bhagwan Singh No. 3/48/



SAS Nagar, the requisite report is as under:-

- I. There is only one accused i.e. Gagandeep Singh is involved in the present case.*
- II. There is only one complainant/ aggrieved person i.e. Supinder Kaur Dhanoa.*
- III. Accused is not declared 'Proclaimed Person' in the present case.*
- IV. The compromise is genuine, voluntary and out of free will of the parties."*

4. Learned counsel for respondent No.2 admits the factum of parties having compromised and states that he has no objection in case the impugned order is quashed.

5. Similarly, learned State counsel has stated that he has no objection in case the impugned order is quashed as the parties have compromised the matter amicably.

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 charge-sheet 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.

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Consequently, the petitions are allowed. FIR No.21 dated 29.5.2019, under Sections 406 and 498-A IPC, registered at Police Station NRI, SAS Nagar, Extradition Challan dated 27.5.2021 bearing no.CHI/314/2021, Mohali, impugned order dated 18.5.2023 (in CRM-M No.30902 of 2023), and all consequent proceedings arising therefrom on the basis of compromise dated 20.5.2024, are, hereby, quashed qua the petitioner.
10.

Photocopy of this order be placed on the connected case file.
11.

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

(SUMEET GOEL)
JUDGE

8.8.2024
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No