

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

CRM-M-31377 of 2023

DATE OF DECISION :- 05.03.2024

Janpal Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Pushp Jain, Advocate for the petitioners.

Mr. Pankaj Bains, Advocate for respondents No. 2 and 3.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 94 dated 03.12.2019 under Sections 406,498-A of IPC, registered at Police Station Women, Patiala and all consequential proceedings arising therefrom on the basis of compromise dated 04.01.2022 (Annexure P-3),is stated to have been effected between the parties.

2. On 13.02.2024, the following order was passed:

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Learned counsel for the petitioners submits that, due to inadvertence, the victim-wife-Harpreet Kaur could not be impleaded as a party respondent.

On oral request of the learned counsel for the petitioners, the victim, namely, Harpreet Kaur d/o Sh. Manjit Singh, r/o Village

Bahadurgarh, Tehsil Samana, District Patiala, presently residing at Melbourne Australia, is directed to be impleaded as party-respondent No.3.

Registry is directed to carry out necessary correction in the memo of parties.

Mr.Pankaj Bains, Advocate, who is appearing for respondent No. 2, appears on behalf of newly added respondent No.3 as well.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

- (i) The petitioners shall appear before the trial Court/Illaqa Magistrate concerned on 19.02.2024 or any date thereafter as fixed by trial Court/Illaqa Magistrate for recording statements of the petitioners 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/Illaq Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaq 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/Illaq 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 report be submitted before this Court before the next date of hearing i.e. 05.03.2024.”

3. Pursuant to the aforesaid order, report dated 28.02.2024 from Judicial Magistrate Ist Class, Patiala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. 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?

Statement of Harpreet Kaur, aggrieved, has been recorded through videoconferencing and she has been duly identified by her father Manjit Singh as well as her counsel. Likewise,

statements of accused Janpal Singh and Jaspal Singh have been recorded through videoconferencing and they have been duly identified by their counsel and Amrik Singh (special power of attorney holder). Complainant Manjit Singh and Amrik Singh (being special power of attorney holder of accused Janpal Singh and Jaspal Singh) have appeared before the court and suffered their separate statements to the effect that they have compromised the matter with each other without there being any pressure, coercion or undue influence. As per the statements of the parties, the compromise is genuine one, voluntarily and without any coercion.

2. Whether there is any other accused other than the petitioners, arrayed in this petition?.

So as to give opinion on this aspect, this court has recorded the statement of ASI Tejinder Pal Singh, No.2291/PTA. As per his statement, in the present case, bearing FIR No.94 dated 03.12.2019. under Sections 406 & 498-A IPC, Police Station Women, Patiala. there are four accused persons namely Jaspal Singh, Janpal Singh, Amrik Singh and Simran Kaur. He further stated that present FIR has been quashed against two accused persons namely Amrik Singh and Simran Kaur, by the Hon'ble Punjab & Haryana High Court vide order dated 05.12.2022.

3. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

As per statement of ASI Tejinder Pal Singh, No.2291/PTA, there is only one complainant namely Manjit Singh and one aggrieved namely Harpreet Kaur, in the present case.

4. Whether any accused has been declared Proclaimed Offender? As per statement of ASI Tejinder Pal Singh, No.2291/PTA, accused Jaspal Singh and Janpal Singh have been declared as Proclaimed Offenders on 23.12.2020.

Hence report is submitted, please.”

4. Learned counsel appearing for respondents No. 2 and 3 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-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 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. 94 dated 03.12.2019 under Sections 406,498-A of IPC, registered at Police Station Women, Patiala and all consequential proceedings arising therefrom on the basis of compromise dated 04.01.2022 (Annexure P-3), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

05.03.2024
P.Singh

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