

CRM-M-32745-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-32745-2023

Date of decision: 26.02.2024

Harkesh Dagar

....Petitioner

V/s

State of Haryana and others

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Yadav, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

Mr. Yashveer Kharb, Advocate for respondent Nos.2 and 3.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.569 dated 28.07.2021 under Sections 323, 328, 376-B, 450 and 506 of IPC, registered at Police Station, Camp Palwal, District Palwal and all consequent proceedings arising therefrom on the basis of compromise, which is stated to have been effected between the parties.

2 On 06.12.2023, the following order was passed:

“1. The petitioner is seeking to quash FIR No. 569, dated 28.07.2021, under Sections 323, 328, 376-B, 450 and 506 IPC registered at Police Station Camp Palwal, District Palwal on the basis of compromise.

2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with respondent No.2 in the year 2005 and three children have been born from the wedlock. On account of matrimonial dispute, respondent No.2 had been residing in her parental house. There are allegations to the effect that the petitioner had administered some stupefying material to respondent No.2 which rendered her unconscious and the petitioner committed rape upon her. The dispute has been amicably settled between the parties. The petitioner and respondent No. 2 have resumed cohabitation. The respondent No. 2 is happily residing with all the three

children in the matrimonial house with the petitioner. No other case is pending between the parties.

3. *Learned counsel for respondent Nos.2 and 3 has acknowledged the fact of compromise.*

4. *Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 16.01.2024 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-*

1. Number of persons arraigned as accused in FIR.

2. Whether any accused is proclaimed offender.

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

4. Whether the accused persons are involved in any other case or not.

5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

5. *To await the report, adjourned to 26.02.2024.”*

3. Pursuant to the aforesaid order, report dated 19.01.2024 from Additional Sessions Judge, Palwal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Vide order dated 06.12.2023 in CRM-M-32745-2023 passed by Hon'ble Punjab and Haryana High Court, the trial court was directed to submit a report on or before next date of hearing i.e. 26.02.2024. In compliance of the order above mentioned the report is as under:-

(i) In the present FIR only Harkesh Dagar son of Dhan Singh is arraigned as accused.

(ii) No accused has been declared proclaimed offender in the present FIR.

(iii) The compromise is genuine, voluntary and without any coercion or under influence. Statements of complainant, victim and accused were recorded in this regard before undersigned.

(iv) As per the report submitted by Investigating Officer ASI Renu another FIR bearing no.772/2021 under sections 498A, 354C, 406, 506 read with 34 of IPC, police station Camp Palwal was registered against accused Harkesh Dagar but the same was cancelled after investigation.

(v) The statement of Investigating Officer was recorded and she has submitted that there is only one victim and one complainant in the present case.

Submitted please.”

4. Learned counsel for respondent Nos.2 & 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 petitioner are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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 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. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

*i) **Ranjeet Kumar versus State of H.P. & Ors.** in case Cr.MMO No. 648 of 2023 decided on 08.12.2023 by the High Court of Himachal Pradesh, Shimla.*

*ii) **Arif Khan versus The State and another** in case W.P. (CRL) 1064/2023 decided on 09.01.2024 by the High Court of Delhi at New Delhi.*

*Iii) **Sukhchain Singh and others versus State of Punjab and others** 2021(4) R.C.R. (Criminal) 81.*

*iv) **Ananda DV Vs. State and another** 2021 SCC Online SC 3423.*

9. 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) As per the report received the compromise is said to be voluntary in its nature.

(iv) Complainant/victim is reported to have entered into compromise on his own volition.

10 Consequently, the petition is allowed. FIR No.569 dated 28.07.2021 under Sections 323, 328, 376-B, 450 and 506 of IPC, registered at Police Station, Camp Palwal, District Palwal and all consequent proceedings arising therefrom on the basis of compromise, are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 26, 2024
Ajay

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