

2024:PHHC:013371

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

280

CRM-M-32899-2023

Date of Decision: 31.01.2024

Pankaj

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr. Priyavrat Parashar, Advocate, for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Neeraj Goel, Advocate for

Mr. Pearl Narang, Advocate for respondent No.2.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 35 dated 03.02.2020 under Sections 323, 376, 377, 406, 498-A, 506 & 511 of IPC read with Section 34 IPC (wherein the Final Report/Challan has been presented under Sections 323, 406, 498-A and 506 IPC and the offences under Sections 376, 377 and 511 read with Section 34 IPC are stated to have been deleted), registered at Police Station, Bawani Khara, Bhiwani, District Bhiwani and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 10.06.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 03.10.2023, the following order was passed:

“By way of the instant petition, the petitioner has prayed for the quashing of the FIR bearing No.35 dated 03.02.2020 registered at Police Station Bawani Khera, Bhiwani, under Sections 323, 376, 377, 406, 498-A, 506 and 511 read with Section 34 IPC (wherein the Final Report/Challan has been presented under Sections 323, 406, 498-A and 506 IPC and the offences under Sections 376, 377 and 511 read with Section 34 IPC are stated to have been deleted), along-with all the subsequent and consequential proceedings arising therefrom, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the present case.

Learned State counsel has submitted the Status-Report on behalf of respondent No.1-State (by way of the affidavit of the Assistant Superintendent of Police, Bhiwani, District Bhiwani), along-with Annexures R-1 and R-2 and the vernacular version of Annexure R-1, in the Court today and these documents are taken on the record.

Learned counsel for the petitioner has also submitted the copy of the Final Police Report under Section 173 Cr.P.C and the same has been placed on the file. Learned counsel for the petitioner, inter-alia, contends that the subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2- wife but now, with the intervention of the respectables, the same stands settled/resolved amicably and the said compromise would promote cordial, peaceful and harmonious relations between them.

Notice of motion.

Learned State counsel accepts the notice on behalf of respondent No.1-State.

At this stage, Ms. Pearl Narang, Advocate has put in appearance on behalf of respondent No.2 and has submitted her Power of Attorney in the Court today and the same is taken on the record. She accepts the notice on behalf of her client and also admits the factum of the compromise having been arrived at between the parties.

Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 18.10.2023 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 31.01.2024 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.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed.”

3. Pursuant to the aforesaid order, report dated 18.10.2023 from Judicial Magistrate, Ist Class, Bhiwani, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. There were four accused namely Pankaj, Vivek, Nikhil and Krishna who were arraigned in the present FIR but challan under Section 173 Cr.P.C was submitted in the court against accused Pankaj only and accused Pankaj has appeared and has made statement qua the compromise.

2. None of the accused is absconding or has been declared proclaimed offender/person in this case.

3. *The name of complainant and injured/aggrieved is Gunjan and she has appeared before the court and made her statement in support of the compromise.*

4. *The present case is at the stage of prosecution evidence.*

5. *The compromise effected between the parties is genuine, voluntary and has been arrived at between the parties out of their free will.*

6. *No other criminal case is pending against the accused."*

4. Learned counsel for respondent No.2 admits the factum of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioner is quashed.

5. Similarly, learned State counsel has stated that he has 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 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.35 dated 03.02.2020 under Sections 323, 376, 377, 406, 498-A, 506 & 511 of IPC read with Section 34 IPC (wherein the Final Report/Challan has been presented under Sections 323, 406, 498-A and 506 IPC and the offences under Sections 376, 377 and 511 read with Section 34 IPC are stated to have been deleted), registered at Police Station, Bawani Khara, Bhiwani, District Bhiwani and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 10.06.2023 (Annexure P-2 are hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

January 31, 2024
poonam

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No