

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

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CRM-M-37003-2022 (O&M)

Date of decision: 18.04.2024

UMESH SHARMA AND ANOTHER

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Angad Panwar, Advocate for
Mr. Vivek K. Thakur, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Vipul Goel, Advocate and
Mr. Apurav Kamboj, Advocate and
Ms. Karishma Kapoor, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.22 dated 31.01.2022 under Sections 406 & 498-A of IPC, registered at Police Station, District Police Commissionerate, Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/settlement (Annexure P-3), which is stated to have been effected between the parties.

2. On 15.05.2023, the following order was passed:

“The petitioners – Dr. Umesh Sharma and Mr. Trilok Nath Sharma have filed petition under Section 482 Cr.P.C. for quashing of FIR No.22 dated 31.01.2022, under Sections 406 and 498-A IPC, registered at Women Police Station, District Police Commissionerate, Ludhiana on the basis of compromise. Notice of motion.

On the asking of this Court, Mr. Kunwarbir Singh, Assistant A.G. Punjab accepts notice on behalf of the State.

Let the statements of the parties be recorded with regard to the compromise on 26.07.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the

said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1. The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offender or any such proceedings have been initiated or pending against him.

2. Whether the compromise entered between the parties is genuine voluntarily without any coercion or undue influence.

3. Statement of IO regarding involvement of petitioners in any other FIR.

4. Status of the trial pending before the Court.

To await the report, list again on 23.08.2023.

Status report be filed by respondent – State by the adjourned date.”

3. Pursuant to the aforesaid order, report dated 02.08.2023 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

1 In compliance of the order dated 15.05.2023 passed in CRM-M- 37003-2022 by Hon'ble Punjab & Haryana High Court, I have the honour to submit as under:

2 That the Hon'ble High Court directed parties to appear before the trial court/Illaq Magistrate to record the statement regarding compromise on 26.07.2023. It is submitted that present case is registered on the complaint of complainant Dr Isha D/o Darshan Lal but she has not come present to record her statement.

3 On the other hand accused Dr. Umesh Shamra and Tarlok Nath come present and recorded their statements regarding compromise to the effect that with the intervention of respectables, they have entered into compromise with the complainant Dr. Isha without any pressure, coercion and undue influence and they have no objection if quashing petition is accepted. They have also placed on record their adhaar cards as their identity proofs.4 The undersigned has orally asked the accused about the compromise with the complainant to which they submitted that the compromise is genuine, voluntary and without any coercion or undue influence. However, complainant has not come present for recording her statement regarding compromise. As such the court of undersigned cannot assess the genuineness of the compromise whether actually compromise actually has been effected between the parties or not. Hence, report is hereby submitted to your goodself for your kind perusal.”

Pursuant to the order dated 04.04.2024 passed by this Hon'ble Court report dated 12.04.2024 has been received from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"1 In compliance of the order dated 04.04.2024 passed in CRM-M- 15440-2024 by Hon'ble Punjab & Haryana High Court, I have the honour to submit as under:

2 The undersigned has recorded the separate statement of complainant namely Dr. Isha D/o. Darshan Lal who stated in her statement that she is the complainant of the present case and on her statement present case bearing FIR No.22 dated 31.01.2022 u/s 406, 498-A IPC, PS Women, Ludhiana was registered against accused namely Dr. Umesh Sharma and Trilok Nath Sharma and now with the intervention of respectables, she has entered into compromise with the accused without any pressure, coercion and undue influence. She has no objection, if the present FIR be quashed. She has also placed on record copy of her Aadhar card as her identity proof. Thereafter, separate statements of accused Dr. Umesh Sharma and Trilok Nath Sharma who in their statements stated that with the intervention of respectables, they have entered into compromise with the complainant Dr. Isha D/o. Darshan Lal, without any pressure, coercion and undue influence and they have no objection if quashing petition is accepted. They have also placed on record the copies of their adhaar cards as their identity proofs. Thereafter, undersigned recorded the statement of IO ASI Veena Rani No.2799/Ldh, PS Division no. 4, Ludhiana who in his statement stated the he is the IO of the present case and as per record present FIR has been registered against accused Dr. Umesh Sharma and Trilok Nath Sharma only. Also, Dr. Isha D/o. Darshan Lal is the only victim/complainant in the present case. He further stated that above said accused have never been declared PO and no other FIR is pending or decided against accused.

3 The undersigned has orally asked the accused and complainant about the compromise to which they submitted that the compromise is genuine, voluntary and without any coercion or undue influence. Hence, I am of the considered view that the compromise between the complainant and accused is valid, genuine, voluntary and without any coercion or undue influence. There are only two accused arrayed in the present case namely Dr. Umesh Sharma and Trilok Nath Sharma. Dr. Isha D/o. Darshan Lal is only complainant in the present case. Accused have never been declared proclaimed offender nor involved in any other criminal case as per statement of IO ASI Veena Rani. Now matter has been compromised between the

parties. Hence, report is hereby sent your goodself for your kind perusal.

4 The true copies of the statements so recorded are annexed herewith for kind reference please.”

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-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 the Hon’ble 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.22 dated 31.01.2022 under Sections 406 & 498-A of IPC, registered at Police Station, District Police Commissionerate, Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/settlement (Annexure P-3), are, hereby, quashed qua the petitioners.
10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 18, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No