

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-38562-2022

Date of decision: 22.02.2024

Gurpal Singh @ Gora and others

...Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.S. Bajwa, Advocate, for the petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

Mr.Chaman Deep, Advocate for
Mr. I.S. Pabla, Advocate for complainant-respondent No.2.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0507 dated 28.09.2017 registered for the offences punishable under Sections 323, 34, 376, 377, 406, 498-A, 506 and 511 of the Indian Penal Code, 1860, at Police Station Thanesar Sadar, District Kurukshetra and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 17.11.2021 (Annexure P-2), which is stated to have been effected between the parties.

2 On 27.03.2023, the following order was passed:

“This is an application for seeking appropriate direction permitting recording of statement by the parties for quashing of the FIR in terms of the compromise deed dated 17.11.2021.

Notice of motion has been issued in the petition for quashing of FIR, and the case is pending for 24.05.2023. The factum of

compromise is not disputed by learned counsel for the applicant-complainant/respondent No.2.

Learned counsel for the non-applicant/petitioners as well as the applicant/respondent No.2 submit that the parties are abroad and not in a position to be physically present before the trial Court at the time of recording of statement. Therefore, they may be permitted to get their statements recorded through their special power of attorneys.

The prayer is accepted.

The parties are directed to get their statements recorded by moving an appropriate application through their duly appointed special power of attorneys while being virtually present before the trial Court at the time of recording of the statements.

The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties.

The trial Court/Duty Magistrate shall also furnish the following information:

- 1. Whether there is any other accused, apart from the petitioners arrayed in this petition.*
- 2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.*
- 3. Whether the parties are involved in any other criminal case.*
- 4. Whether any of the parties has been declared a proclaimed offender.*

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed in the main case, i.e.,24.05.2023.”

3. Pursuant to the aforesaid order, report dated 02.05.2023 from Judicial Magistrate, (First Class), Kurukshetra, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Whether there is any other accused, apart from the petitioners arrayed in this petition (No. The accused persons arrayed in the present FIR are Gurpal Singh @ Gora, Amrik Singh and Patwinder Kaur).

2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition;(From perusal of the report u/s 173 Cr.P.C, it transpires that the present case has been registered on the complaint of complainant Shaina Virk and there is no other complainant or affected/aggrieved party except the complainant Shaina Virk).

3. Whether the parties are involved in any other criminal case; (As per the statement of the Investigating Officer Ramandeep Kaur SI, the parties are not involved in any other criminal case till filing of the challan in the present FIR).

4. Whether any of the parties has been declared a proclaimed offender (As per the statement of the Investigating Officer Ramandeep Kaur SI, none of the party has been declared proclaimed person till filing of the challan. However, during trial, accused Gurpal Singh has been declared proclaimed person vide order dated 09.11.2022 by the Court of Undersigned).

The complainant Shaina Virk through special power of attorney Gurdev Singh, accused Gurpal Singh through special power of attorney Randeep Singh, accused Amrik Singh and Patwinder Kaur appeared and their separate statements recorded separately. Complainant Shaina and accused Gurpal Singh also appeared through VC. Copy of compromise Ex.C1 and special power of attorneys as Ex.C2 and Ex.C3 have been placed on file. The statement of I.O. also recorded. The statements alongwith order passed today i.e. 27.04.2023 are hereby sent to the Hon'ble High Court. Report is hereby submitted please.”

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 are 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. 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) *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.*

10. Consequently, the petition is allowed. FIR No. 0507 dated 28.09.2017 registered for the offences punishable under Sections 323, 34, 376, 377, 406, 498-A, 506 and 511 of the Indian Penal Code, 1860, at Police Station Thanesar Sadar, District Kurukshetra and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 17.11.2021 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 22, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No