



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

299

CRM-M-35628-2024

Date of decision: 27.08.2024

PARAMJIT KAUR AND ORS

....PETITIONERS

V/s

STATE OF PUNJAB AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gurbhagat Singh Gill, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Tejinder Pal Singh, Advocate
for respondent Nos.2 and 3.

SUMEET GOEL, J.

1. The second instant petition has been filed under Section 528 of BNSS, 2023 praying for quashing of cross case registered vide DDR No.16, dated 13.03.2019 (offence under Sections 323, 324, 326, 34 of IPC were added on 27.03.2019 vide DDR No.12) in FIR No. 0036 dated 05.04.2019 under Sections 323, 354-B, 355, 382, 34 of IPC, registered at Police Station Nehianwala, District Bathinda and all consequential proceedings arising therefrom on the basis of compromise dated 19.02.2024 (Annexure P-3), which is stated to have been effected between the parties.

2. On 29.07.2024, 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.

Notice of motion.

At this stage, Mr. Adhiraj Singh Thind, AAG, Punjab, has put in appearance on behalf of respondent No.1-and accepts notice.



Mr. Tejinder Pal Singh, Advocate has appeared and filed vakalatnama on behalf of respondent Nos.2 and 3. The same be taken on record.

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/Illaq Magistrate concerned on 03.08.2024 or any date thereafter as fixed by trial Court/Illaq 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/Illaq 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/Illaq Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq 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/Illaq 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. 27.08.2024.”



3. Pursuant to the aforesaid order, report dated 22.08.2024 from Judicial Magistrate Ist Class, Bathinda has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"I have the honour to submit that, vide order dated 29.07.2024, the Hon'ble High Court has called for the report of the Trial Court/Illaq Magistrate in "CRM-M-35628-2024 titled as Paramjit Kaur & Ors. Vs. State of Punjab & Ors.", containing the following information:

(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?

It is respectfully submitted that on 03.08.2024, the respondent/complainant, Major Singh, son of Saroop Singh, residing in village Killi Nihal Singh Wala, Bathinda, appeared and gave a statement. Based on his statement, DDR No. 16 dated 13.03.2019 under Sections 323, 324, 326, and 34 IPC was registered on 27.03.2019 at Police Post Killi Nihal Singh Wala. In case FIR No. 36 dated 05.04.2019 under Sections 323, 354- B, 355, 382, 34 IPC, PS Nehianwala, Distt. Bathinda was registered against the accused persons, namely, Paramjit Kaur, Hurmandeep Kaur, Bikramjit Singh (juvenile), and Taranjit Singh (juvenile). He further stated that, with the intervention of respectable individuals, he has amicably settled all his disputes with the aforementioned accused. The compromise was made of his own free will and without any pressure, coercion, undue influence, misrepresentation, or fraud. He has no objection if the aforementioned DDR/FIR is quashed by the Hon'ble Punjab & Haryana High Court based on the compromise. He has provided a copy of his Aadhar Card as a token of his identity, attached as Annexure P1.

It is further respectfully submitted that on the above-mentioned date. i.e. 03.08.2024, respondent/eyewitness Manjinder Singh, son of Major Singh, residing in village Killi Nihal Singh Wala, Bathinda, appeared and gave a statement to the effect that on the complaint of Major Singh, DDR No. 16 dated 13.03.2019 under Sections 323, 324, 326, 34 IPC was registered on 27.03.2019 at Police Post Killi Nihal Singh Wala, in case FIR No. 36 dated 05.04.2019 U/s 323, 354-B, 355, 382, 34 IPC, PS Nehianwala, Distt. Bathinda against the accused persons, namely Paramjit Kaur, Hurmandeep Kaur, Bikramjit Singh (juvenile), and Taranjit Singh (juvenile) He further stated that with the intervention of respectable individuals, he has amicably settled all his disputes with the aforementioned



accused. The compromise was made of his own free will and without any pressure, coercion, undue influence, misrepresentation, or fraud. He has no objection if the aforementioned DDR/FIR is quashed by the Hon'ble Punjab & Haryana High Court based on the compromise. He has provided a copy of his Aadhar Card as a token of his identity, attached as Annexure P2.

It is further respectfully submitted that on the above-mentioned date, i.e. 03.08.2024, the petitioners/accused, Paramjit Kaur, Hurmandeep Kaur, juvenile Bikramjit Singh, and juvenile Taranjit Singh, appeared and gave separate statements to the effect that on the statement of the complainant, Major Singh, DDR No. 16 dated 13.03.2019, under Sections 323, 324, 326, 34 IPC, was registered on 27.03.2019 at Police Post Killi Nihal Singh Wala, in case FIR No. 36 dated 05.04.2019, U/s 323, 354-B, 355, 382, 34 IPC, PS Nehianwala, Distt. Bathinda, against them. They have further stated that they have compromised the matter with the said complainant and Manjinder Singh voluntarily, without any pressure, coercion, undue influence, misrepresentation, or fraud, with the intervention of respectable individuals. They have also stated that no other case is pending against them except the present FIR, and they have not been declared proclaimed offenders in any case. Now, they have no grudge against the aforementioned complainant and Manjinder Singh. The above-mentioned FIR against them may be quashed by the Hon'ble Punjab & Haryana High Court on the basis of the compromise between the parties. They have provided copies of their Aadhar Cards as tokens of their identity, which are attached as Annexure P3, Annexure P4, Annexure P5, and Annexure P6, respectively.

It is further respectfully submitted that today, i.e. on 20.08.2024, ASI Kaur Singh No. 576/BTI, now posted at PS Canal Colony, Bathinda, appeared and gave a statement that he is the investigating officer of DDR No. 16 dated 13.03.2019 under Sections 323, 324, 326, 34 IPC, which was registered on 27.03.2019 at Police Post Killi Nihal Singh Wala, in case FIR No. 36 dated 05.04.2019 U/s 323, 354-B, 355, 382, 34 IPC, PS Nehianwala, Distt. Bathinda. This FIR was registered against the accused persons, namely Paramjit Kaur, Hurmandeep Kaur, Bikramjit Singh (juvenile), and Taranjit Singh (juvenile), on the statement of complainant Major Singh. He further stated that the final report under Section 173 Cr.P.C. against juveniles Bikramjit Singh and Taranjit Singh has already been presented before the Juvenile Justice Board. In this FIR, there are no other accused persons except the aforementioned individuals, and there is no other aggrieved or injured person besides complainant Major Singh. According to police records, there is no previous criminal history of the accused persons, nor have they been declared proclaimed offenders in any case.



Apart from the above, the undersigned is pleased to submit the following answers to the questionnaire put by Your good self:-

- (i). There is no other accused other than the petitioners, arrayed in the petition.*
- (ii). There is no other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition.*
- (iii). No accused in the present case has been declared as a proclaimed offender.*

Accordingly, the report is submitted. The statements of the petitioners/accused, the respondents/complainant, as well as SI Kaur Singh no.576/BTI, are enclosed herewith.

It is further respectfully submitted that the present case is fixed for 21.09.2024 for awaiting further orders from the Hon'ble High Court."

4. Learned counsel for respondent Nos.2 and 3 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 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.

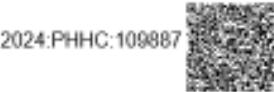
8. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

- i) *Ranjeet Kumar versus State of H.P. & Ors. in case CRM-M-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 528 of BNSS, 2023 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. DDR No.16, dated 13.03.2019 (offence under Sections 323, 324, 326, 34 of IPC were added on 27.03.2019 vide DDR No.12), FIR No. 0036 dated 05.04.2019 under Sections 323, 354-B, 355, 382, 34 of IPC, registered at Police Station Nehianwala, District Bathinda and all consequential proceedings arising therefrom on the basis of compromise dated



11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 27, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No