

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-37930-2023 (O&M)
Date of decision: 09.04.2024

SUNNY @ SATISH KUMAR AND OTHERS

....PETITIONERS

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tushar Sabherwal, Advocate &
Mr. Nandan Jindal, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Abhinandan Jindal, Advocate for
for respondent Nos.2 to 5.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.0078 dated 12.04.2018 under Sections 323, 342, 354-B, 148, 149, 506 of IPC, registered at Police Station, Division No.4 Jalandhar, District Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 25.07.2023 (Annexure P-2), which is stated to have been effected between the parties.
2. On 04.08.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0078 (Annexure P-1) dated 12.04.2018 under Sections 323, 342, 354-B, 148, 149, 506 of the Indian Penal Code, 1860 registered at Police Station Division No.4, Jalandhar, District Jalandhar.

Learned counsel for the petitioners would contend that the aforesaid FIR is the result of a matrimonial discord and now all

disputes between the parties stand settled and infact the couple is now residing together. It is further contended that the parties have entered into a written compromise dated 25.07.2023, a copy of which is appended with the present petition as Annexure P-2. Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052] to contend that this Court has wide powers under Section 482 CrPC to quash the proceedings in cases where the parties have entered into a compromise voluntarily and willingly to prevent abuse of law and to secure the ends of justice.

Notice of motion.

Mr. Adhiraj Singh, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Tarun Seth, Advocate puts in appearance on behalf of respondent Nos.2 to 5 and has accepted notice on their behalf. Copy of the petition has already been supplied to both the counsel.

Learned counsel for respondent Nos.2 to 5 has also reiterated that the parties have since entered into the compromise at Annexure P- voluntarily and willingly and that respondent Nos.2 to 5 would have no objection if the aforesaid FIR is quashed.

List on 28.11.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 05.09.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing :

- 1) Whether the settlement/compromise dated 25.07.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties."*

3. Pursuant to the aforesaid order, report dated 01.04.2024 from Chief Judicial Magistrate, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reply to query no.1, it is submitted that in view of the statements of accused/petitioners no.1 to 5 and complainant party/respondents no.2 to 5, the settlement/compromise dated 25.07.2023 (Mark A) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

In reply to query no.2, it is submitted that as per the statements suffered by investigating officer SI Surjit Singh as well as the parties, the parties are not involved in any other criminal case and no other criminal case is pending against them.

In reply to query no.3, it is submitted that earlier vide order dated 04.11.2023, accused Satish @ Sunny son of Simar Chand, Varinder Kumar @ Vicky and Simar Chand were declared as proclaimed persons. However, accused Varinder Kumar and Simar Chand were arrested on 20.12.2023 and now they are on bail. It is further submitted that operation of order dated 04.11.2023 qua accused Satish @ Sunny has been stayed by the Hon'ble Punjab and Haryana High Court vide order dated 31.01.2024 in CRM-M- 2510-2024. Thus, at present proclamation proceedings are not pending against either of the parties.”

4. Learned counsel for respondent Nos.2 to 5 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-2).

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 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.0078 dated 12.04.2018 under Sections 323, 342, 354-B, 148, 149, 506 of IPC, registered at Police Station, Division No.4 Jalandhar, District Jalandhar and all consequential proceedings arising therefrom on the basis of compromise dated 25.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioners. The P.O. proceedings against the petitioner-Sunny @ Satish Kumar stand quashed vide order of even date i.e. 09.04.2024 passed in CRM-M-4510-2024.

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

(SUMEET GOEL)
JUDGE

April 09, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No