

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-40209-2022 (O&M)
Date of decision: 14.03.2024

JASWINDER SINGH AND OTHERS

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioners.

Mr. Anup Singh, AAG, Punjab.

Mr. Saurav Bhatia, Advocate for
Mr. H.S. Bhatoa, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing
of FIR No.127 dated 10.12.2017 under Sections 498-A, 34 of IPC, registered
at Police Station, Behram, SBS Nagar and all consequential proceedings
arising therefrom on the basis of compromise dated 13.08.2022 (Annexure
P-2), which is stated to have been effected between the parties.
2. On 05.09.2022, the following order was passed:

Notice of motion.
Mr.Navneet Singh, Sr. DAG, Punjab and Mr.Nagesh Paul,
Advocate, accept notice on behalf of respondent No.1 and
respondent No.2 respectively.
Learned counsel for the petitioners undertakes to supply a
complete set of the paper book to learned counsel for the
respondents during the course of the day.
Through the present petition filed under Section 482 Cr.P.C. the
petitioners seek quashing of FIR No.127 dated 10.12.2017
registered under Sections 498-A and 34 IPC at Police Station

Behram, District SBS Nagar on the strength of a written compromise dated 13.08.2022 (Annexure P-2) entered into between the parties.

The petitioners as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 15.09.2022 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 19.12.2022.”

3. Pursuant to the aforesaid order, report dated 16.11.2022 from Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(I) Whether the compromise is genuine, voluntary and without any coercion or undue influence: In compliance with the directions passed by the Hon'ble High Court, Gurmukh Singh son of Joginder Pal (attorney holder of complainant Kirandeep Kaur) and accused persons namely Jaswinder Singh son of Resham Lal, Balvir Kaur wife of Late Sh. Resham Lal and Randeep Kaur wife of Kamaljeet Singh have appeared before this court and requested for recording their statements with regard to the compromise effected between them. Statements of attorney-holder of complainant and accused persons were got recorded. It has been stated in their statements that with the intervention of respectables of society, the compromise have been effected between the accused persons as well as the complainant voluntarily out of free will and without any undue influence or coercion. Therefore, in view of above-mentioned statements so recorded, it is submitted that the compromise so effected between the parties is genuine and is effected voluntarily with the free will of the parties.

(ii) Whether all the accused are party to the compromise or not: As per the report under Section 173 (2) Cr.P.C. submitted by Investigating Agency, the FIR was registered against three accused persons namely Jaswinder Singh, Balvir Kaur and Randeep Kaur. All the three accused persons have come present today and suffered their statements and are therefore party to the compromise so effected between them and the

complainant.

(iii) Whether any accused is declared as proclaimed offender or involved in any other criminal case: When the report under Section 173 (2) Cr.P.C. was submitted by Investigating Agency, accused Jaswinder Singh, Balvir Kaur and Randeep Kaur are not declared proclaimed offender in this case and any other case. No other accused is involved in this case except these three accused persons. More so, as stated by the investigating officer, the accused persons have not been declared proclaimed offender in this case or any other case. In view of the statements so suffered, it is submitted that the compromise so effected between the parties is genuine. However, since the complainant herself has not come present and had suffered her statement through attorney holder, this report is submitted accordingly for information and necessary action by the Hon'ble Punjab and Haryana High Court. The statements made by the parties alongwith their identity proofs and copy of special power of attorney are enclosed herewith."

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-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. 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.127 dated 10.12.2017 under Sections 498-A, 34 of IPC, registered at Police Station, Behram, SBS Nagar and all consequential proceedings arising therefrom on the basis of compromise dated 13.08.2022 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

March 14, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No