

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

**CRM-M-38678 of 2023
DATE OF DECISION :- 20.02.2024**

Ajay Kumar and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Deepak Aggrwal, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Mayank Mahla, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 14 dated 19.02.2020 under Sections 498-A/406 IPC, registered at Police Station P.S. Women, Bathinda District Bathinda and all consequential proceedings arising therefrom on the basis of compromise dated 27.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 08.08.2023, the following order was passed:

“Notice of motion.

Mr. Virat Rana, AAG, Punjab puts in appearance and accepts notice on behalf of respondent No. 1-State and seeks time to file reply, if any.

At this stage, Mr. Mayanak Mahla, Advocate puts in appearance on behalf of respondent No. 2 and filed power of attorney in the

Court today which is taken on record. Copy of the paper book be supplied during the course of the day.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, within a period of 15 days for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

(i) how many total accused are facing the trial;

(ii) whether any of the accused was declared proclaimed offender at any stage of trial;

(iii) status/stage of the trial/case;

(iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;

(v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 06.11.2023.”

3. Pursuant to the aforesaid order, report dated 01.09.2023 from Judicial Magistrate First Class, Bathinda has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1.It is respectfully submitted that there is two accused persons namely Ajay Kumar and Ashok Kumar in the present FIR.

2.As per record no accused has been declared as proclaimed offender.

3. It is further submitted that challan in the present case has already been presented in the court.

4. It is further submitted that in view of statements given by the parties, this Court is of the considered opinion that compromise effected between parties is genuine and it is effected voluntarily, without any pressure, coercion or undue influence from any quarter.

5. Statement of investigating officer with regard to points No. (i).(ii), (iii) is recorded.

This report along with statements of parties i.e. complainant namely Mamta Rani and accused persons namely Ajay Kumar and Ashok Kumar and Investigating officer ASI Rajinder Kaur

submitted, as desired by the Hon'ble High Court vide its order dated 08.08.2023."

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 is 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 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. 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. 14 dated 19.02.2020 under Sections 498-A/406 IPC, registered at Police Station P.S. Women, Bathinda District Bathinda and all consequential proceedings arising therefrom on the basis of compromise dated 27.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

20.02.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No