

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

241

CRM-M-41375-2022
Date of decision: 10.04.2024

MOHD. NASEER

....PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jai Bhagwan, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Sanjeev Kumar, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.15 dated 31.01.2019 under Sections 376, 506 of IPC, registered at Police Station, City Malerkotla, District Sangrur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 14.02.2019 (Annexure P-2 & P-3), which is stated to have been effected between the parties.
2. On 13.03.2023, the following order was passed:

*“The petitioner has filed the present petition seeking quashing of FIR No.15 dated 31.01.2019 under Sections 376 and 506 of the Indian Penal Code, 1860, registered at Police Station City Malerkotla, District Sangrur (now Malerkotla) (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise dated 14.02.2019 (Annexure P-2) and affidavit dated 14.02.2019 (Annexure P-3).
Notice of motion.*

On the asking of Court, Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of respondent No.1-State and Mr. Sanjeev Kumar, Advocate accepts notice and filed Power of Attorney on behalf of respondent No.2, which is taken on record. Learned

State Counsel on instructions from ASI Rajinder Singh submits that the petitioner is the same person named as Nasir Ahmed @ Mohd. Naseer.

Learned counsel for respondent No.2 has not denied the factum of compromise effected between the parties.

Adjourned to 01.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 23.03.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 24.04.2023 from Sub Divisional Judicial Magistrate, Malerkotla has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In the above noted criminal petition, in furtherance to order dated 13/3/2023 passed by the Hon'ble Punjab and Haryana High Court in petition titled as Mohd. Naseer Vs. State of Punjab and another bearing CRM-M-41375- 2022, the parties were directed to appear before the trial Court/Ilaqa Magistrate on 23/3/2023, for getting their statements recorded. On 23/3/2023 complainant Shehnaz and accused Mohammad Naseer @ Nasir Ahmed appeared in the Court with their counsel and separate statements of complainant and that of accused were recorded. The complainant in her separate statement stated that the matter has been compromised with the accused in present FIR no.15 dated 31/1/2019 under Sections 376 and 506 IPC, PS City-I, Malerkotla with their free consent, without any pressure and coercion and he has no objection if the present FIR be quashed. The accused also stated regarding the compromise effected with the complainant. Both the parties were identified by their respective counsels. Thereafter, the statement of Investigating Officer SI Baljit Singh, No.735/Sgr, Posted at CIA Staff, Mahurana was recorded on 12/4/2023 that there is one accused namely Mohd. Naseer involved in the present FIR and except him there is no other accused. There is one complainant Shehnaz involved in the present FIR and both the parties are not involved in any other criminal case and parties have not been declared as proclaimed offender in the present FIR.

From the statements of the parties, it is concluded that the compromise so effected between the parties is genuine, voluntary and without any coercion or undue influence.”

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 is quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise/affidavit (Annexure P-2 & 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 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.15 dated 31.01.2019 under Sections 376, 506 of IPC, registered at Police Station, City Malerkotla, District Sangrur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 14.02.2019 (Annexure P-2 & P-3), are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

April 10, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No