

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

287

CRM-M-39253-2023
Date of decision: 11.03.2024

RAGHAV

....PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Chandandeep Singh, Advocate
for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Rajinder Yadav, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.37 dated 25.02.2023 under Sections 363 and 366-A of IPC, registered at Police Station, Division No.6, District Ludhiana, and all consequential proceedings arising therefrom on the basis of compromise dated 06.03.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 22.11.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.37 dated 25.02.2023 under Sections 363, 366-A of the Indian Penal Code, 1860 registered at Police Station Division No.6, District Ludhiana (Annexure P-1), and all other consequential proceedings arising there-from, on the basis of a compromise dated 11.08.2023 (Annexure P-6).

Earlier the present petition was filed along with an affidavit and no compromise was placed on the record. Subsequently, vide CRM-36027- 2023 compromise deed dated 11.08.2023 has been placed on the record as Annexure P-6.

Learned counsel for the petitioner would contend that the FIR is the result of a misunderstanding which now stands cleared and

that the parties have resolved all their disputes by way of compromise dated 11.08.2023 (Annexure P-6). Learned counsel for the petitioner has relied upon the judgement of Hon'ble Supreme Court rendered in "Gian Singh Vs. State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgement of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052]. Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab, accepts notice on behalf of respondent No.1-State. Mr. Rajinder Yadav, Advocate accepts notice for respondent No.2/complainant. Copy of the petition has already been supplied to both the counsel. Learned counsel appearing for respondent No.2 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-6 with the petition. He further submits that the said compromise has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 would have no objection if the aforesaid FIR is quashed in view of the compromise arrived at between the parties.

List on 11.03.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 02.12.2023, 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 compromise dated 11.08.2023 (Annexure P-6) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether all the accused are party to the compromise.*
- 3) Whether any other criminal cases are pending against the parties.*
- 4) Whether any proclamation proceedings are pending against either of the parties."*

3. Pursuant to the aforesaid order, report dated 06.12.2023 from Additional Sessions Judge, Ludhiana, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"It is respectfully submitted that a case titled as State Vs. Raghav in FIR No.37, dated 25.02.2023, U/s 363, 366-A IPC, P.S. Division No.6, Ludhiana is pending in my Court. In this case parties have effected a compromise and have approached the Hon'ble High Court. So, in CRM-M- 39253 of 2023 vide order dated 22.11.2023, the Hon'ble High Court has directed this Court to record the statements of the parties regarding the genuineness of the compromise. Accordingly on 02.12.2023, the statement of complainant Ravneet Kaur is recorded wherein she has stated that she has effected the compromise with the accused with the intervention of relatives and common friends. She produced the copy of written compromise as Ex.PX. She stated that she got registered the FIR due to some misunderstanding. She has effected a compromise out of her free will, without any pressure or

coercion. The said compromise is genuine and is not result of any fraud or misrepresentation. There is no other accused in this FIR and none is PO. The statement of the accused regarding the compromise is also recorded and he admitted the written compromise Ex.PX. He also said that no other FIR is registered against him. So, in view of the said statements, this Court is satisfied that the compromise between the parties is genuine and without any undue influence, coercion or pressure and all the accused are party to the compromise. No other criminal case is pending against the accused and none of the accused is PO. Hence, the report is submitted accordingly for information and further necessary action."

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 are quashed.

5. Similarly, learned State counsel has stated that he has 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.37 dated 25.02.2023 under Sections 363 and 366-A of IPC, registered at Police Station, Division No.6, District Ludhiana, and all consequential proceedings arising therefrom on the basis of compromise dated 06.03.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

March 11, 2024
jatin

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No