

CRM-M-40533-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-40533-2023

Date of decision: 29.02.2024

Sahil Nanda

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gourav Goel, Advocate for the petitioner.
Mr. Yuvraj Singh, AAG Punjab.
Mr. Puneet Singla, Advocate for respondent Nos.2 and 3.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.197 dated 07.12.2018 under Sections 406, 498-A, 323, 506 & 34 of IPC, registered at Police Station-Division No.03, District Police Commissionerate Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.06.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 15.01.2024, the following order was passed:

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 197 dated 07.12.2018 under Sections 406, 498-A, 323, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Division No.03, District Police Commissionerate Ludhiana, and all other consequential proceedings arising there-from on the ground that the parties have since compromised the matter vide compromise deed dated 09.06.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise deed dated 09.06.2023 has been appended with the present petition as Annexure P-2. Learned counsel for the petitioners has relied upon the judgment by the

Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Learned counsel appearing for respondent Nos.2 and 3 has stated that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P-2 with the petition. He further states that respondent Nos.2 & 3 have no objection if the aforesaid FIR is quashed,

List on 29.02.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 16.01.2024, 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 09.06.2023 (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 15.02.2024 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Most humbly, it is submitted that in compliance of order dated 15.01.2024 passed by Hon'ble Punjab and Haryana High Court, Chandigarh, in the criminal miscellaneous petition cited in the subject above, it is respectfully submitted that Hon'ble Punjab and Haryana High Court, Chandigarh has vide order dated 15.01.2024 directed the parties to appear before the Illaq Magistrate to get their statements recorded as per the terms of compromise.

In pursuance of the order of Hon'ble Court it is respectfully submitted that on 16.01.2024 complainant/respondent Neha Nanda d/o Sunil Maini along with her father Sunil Maini s/o Late Sh. Faqir Chand both resident of House No.681, Block-10, Iqbal Ganj Chowk, Ludhiana and accused/petitioner Sahil Nanda appeared before the Court of the undersigned. The complainant/respondents suffered their statements that the compromise has been effected by them with

accused Sahil Nanda with their free will, without any fear or coercion. They have objection if the quashing petition be allowed.

Petitioner/accused Sahil Nanda stated that they have compromised the matter with the complainant/respondents with his free will, without any fear or coercion.

The report as desired by the Hon'ble Court is respectfully submitted as under:-

1. *The compromise is genuine, voluntarily made out of the free will of the parties and without any coercion or undue influence.*
2. *There is no other criminal case pending against the parties as per the statement of IO.*
3. *The accused has never been declared proclaimed offender as per the statement of the IO ASI Jagdish Raj.*

In view of the statement of complainant/respondents and accused/petitioners, the undersigned is of the view that the compromise is out of the free will of the parties and without any coercion or undue influence.

The detailed report and photocopy statements of the parties are enclosed herewith, as desired.

Submitted please.”

4. Learned counsel for respondent Nos.2 & 3 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 petitioner 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 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 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.197 dated 07.12.2018 under Sections 406, 498-A, 323, 506 & 34 of IPC, registered at Police Station-Division No.03, District Police Commissionerate Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.06.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 29, 2024
Ajay

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