

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

288

CRM-M-39653-2023
Date of decision: 11.03.2024

NIRBHAI SINGH

....PETITIONER

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ajay Singh, Advocate for
Mr. Tejwinder Singh Hundal, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. P.S. Sullar, Advocate
for respondent Nos.2 and 3.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.120 dated 03.08.2022 under Sections 498-A and 406 of IPC, registered at Police Station, City Khanna, Police District Khanna, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 25.04.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 19.10.2023, the following order was passed:

Mr. Prabhjeet Singh Sullar, Advocate, has appeared on behalf of respondents No.2 & 3 in this case and has submitted his Power of Attorney in the Court today and the same is taken on the record. He acknowledges the factum of the compromise having been arrived at between the petitioners and respondents No.2 & 3. Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 24.02.2024 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 11.03.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise;*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case;*
- 3. the name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed.”

3. Pursuant to the aforesaid order, report dated 01.03.2024 from Judicial Magistrate, Ist Class, Khanna, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) Number of accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise. It is hereby submitted that in view of the statement of Investigating officer of the present case there is only one accused namely Nirbhai Singh in the present FIR and he has appeared and has made his statement qua the compromise.

(ii) Whether any accused is absconding or has been declared PO/Proclaimed Person in this Case. It is hereby submitted that in view of the statement of Investigating Officer of the present case the accused Nirbhai Singh is neither absconding nor declared PO/Proclaimed Person in this case

(iii) Name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise: It is hereby submitted that in view of the statement of Investigating Officer the name of the complainant and injured/aggrieved person is Sandeep Kaur and she has appeared and has made her statement.

(iv) The stage of trial/proceedings: It is hereby submitted that the case is at the stage of awaiting challan.

(v) Whether the compromise is genuine, voluntary and out of free will of the parties. It is hereby submitted that statements were recorded in which the complainant Sandeep Kaur, her father

Sukhdev Singh and the accused namely Nirbhai Singh expressed themselves having reached a compromise. As such, the said compromise ex facie seems to be genuine, voluntary and out of their free will, without any pressure, threat, coercion or undue influence between complainant and accused.

(vi) Whether any other criminal case is pending against the accused. It is hereby submitted that in view of statement of Investigating Officer no any other criminal case is pending against the accused persons. The requisite report is accordingly submitted please.”

4. Learned counsel for respondent Nos.2 and 3 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.120 dated 03.08.2022 under Sections 498-A and 406 of IPC, registered at Police Station, City Khanna, Police District Khanna, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 25.04.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

March 11, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No