

Date of decision: 14.02.2024

....Respondents

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AJAY KUMAR
2024.02.14 15:46
I attest to the accuracy and
integrity of this document

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Ashutosh Verma, Advocate appearing for Mr. Sevak Thakur, 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-3 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 has no objection if the aforesaid FIR is quashed.

List on 14.02.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 12.12.2023, 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 02.09.2023 (Annexure P-3) 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 15.12.2023 from Judicial Magistrate Ist Class, Jind has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reference to the subject cited above, it is respectfully submitted that Hon'ble High Court in above noted petition has directed vide order dated 09.11.2023 to the parties to appear before the CJM/Trial court/Illaq Magistrate on 12.12.2023 or any other date convenient to the court for recording their statements with regard to compromise/settlement. The concerned court has been directed to submit the report after recording the statement of the parties in relation

to above referred case. The parties have appeared before the court on 13.12.2023 and the statement of the parties have been recorded.

The complainant Annu has stated that she has compromised the matter with accused Aman Kumar and Panmeshwari Devi. She has stated that she is giving the statement without any fear, pressure or greed. She has prayed for quashing the FIR. The accused Aman Kumar and Panmeshwari Devi have also appeared and have stated that they have compromised the matter with complainant Annu. They have stated that they have compromised the matter without any fear, pressure or greed. They have prayed for quashing the FIR.

The notice was issued to IO, HC Neelam has appeared on 14.12.2023 and has made the statement that she is posted in P.S. Women as Head Constable. As per record no other case is registered against the present parties. No accused has been declared P.O. in any case and no P.O. proceedings are pending against any party.

I have also questioned the parties about the voluntariness of their statement. From the statement of the parties including complainant, accused and HC Neelam, I am satisfied that the compromise entered between the parties is genuine, voluntary and without any coercion or undue influence. The compromise is not result of any fraud or misrepresentation and it is the result of free will of the parties. As per HC Neelam, no criminal case is pending against the parties and no proclamation proceedings are pending against any party. The statements of the complainant, accused and the HC Neelam have been recorded which are attached along-with report as desired. Submitted please.”

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 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. 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 Cr.MMO No. 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.94 dated 05.08.2019 under Sections 323, 34, 354, 377, 406, 494, 498-A and 506 of IPC, registered at Women Police Station Jind, District Jind (Annexure P-1) and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 02.09.2023 (Annexure P-3), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 14, 2024

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No