

CRM-M-40565-2019

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-40565-2019

Date of decision: 15.05.2024

Jaswinder Singh

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Malkeet Singh, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
Ms. Pragti Kumari, Advocate for
Mr. Satnam Singh Thakur, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.21 dated 03.02.2015 (Annexure P-1) under Sections 406 and 498-A of IPC, registered at Police Station, Phillaur, District Jalandhar as also order dated 06.09.2015 vide which the petitioner has been declared as Proclaimed Offender (Annexure P-4) and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 24.05.2018 (Annexure P-2), which is stated to have been effected between the parties.

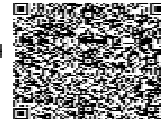
2 On 16.02.2024, the following order was passed:

“Status report by way of affidavit of Sh. Sarvanjit Singh, PPS, Deputy Superintendent of Police, Sub-Division Phillaur, District Jalandhar dated 13.02.2024 filed in Court today. The same is taken on record.

The petitioner has approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioner shall appear before the trial Court/Illaq Magistrate concerned on 05.03.2024 or any date thereafter as fixed by trial



Court/Illaqa Magistrate for recording statements of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaqa Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioner, arrayed in this petition?

(ii) Whether there is any other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 21.03.2024.

The operation of the impugned order dated 06.09.2015 shall remain stayed till the next date of hearing”



Thereafter, on 25.04.2024, the following order was passed:

“Vide order dated 08.04.2024, a report from the concerned SDJM, Phillaur, District Jalandhar was sought for qua affidavit filed in the Court on behalf of Sh. Navjot Singh Samra, Advocate. However, the said report has not been received.

The District and Sessions Judge, Jalandhar is directed to seek explanation in this regard from the concerned SDJM, Phillaur, District Jalandhar, Punjab and send the same to this Court.

In the meanwhile, it is directed that the parties are at liberty to appear before the Chief Judicial Magistrate, Jalandhar in terms of the order dated 16.02.2024, to get their statements recorded.

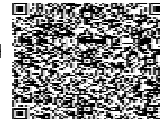
The Chief Judicial Magistrate, Jalandhar is directed to send a report to this Court in terms of the order dated 16.02.2024 well before the next date of hearing.

Adjourned to 13.05.2024.”

3. Pursuant to the aforesaid orders, report dated 10.05.2024 from Chief Judicial Magistrate, Jalandhar has been received, which is taken on record. As per the report, the said Court has recorded as follows:-

“On the basis of aforesaid statements of the parties. compromise effected between the parties is found to be valid compromise and has been effected without there being any kind of influence or coercion. Parawise report as sought vide orders dated 16.02.2024 and 25.04.2024 is as under:-

- i. *In reply to query no.i, it is submitted that as per the statement suffered by the investigating officer, FIR was registered against two accused persons namely petitioner/accused Jaswinder Singh and his father Satpal Singh. During trial, accused Gurpal Kaur and Paramjit Kaur were summoned under Section 319 Cr.P.C. It is further submitted that as per statements of the parties, FIR qua accused Satpal Singh, Gurpal Kaur and Paramjit Kaur has already been quashed by Hon'ble Punjab and Haryana High Court vide order dated 29.08.2018 passed in CRM-M-27808 of 2018. Therefore, there is no other accused other than the petitioner.*
- ii. *In reply to query no., it is submitted that as per the statement suffered by investigating officer, there is no other complainant or affected/aggrieved party other than the respondent no.2, who has been arrayed in the petition.*
- iii. *In reply to query no.iii, it is submitted that as per statement suffered by Investigating Officer/Inspector Sukhdev Singh, accused Jaswinder Singh has been declared proclaimed offender. Copies of statements of the*



parties, that of Investigating Officer and photocopy of compromise Ex-C1 are enclosed herewith for the kind perusal of the Hon'ble Punjab and Haryana High Court.

Submitted please.”

4. Learned counsel appearing for respondent No.2 admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioner as also raised no objection to the quashing of order dated 06.09.2015 vide which the petitioner has been declared a Proclaimed Offender, are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

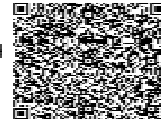
6 I have heard learned Counsel for the parties and have carefully gone through the records of the case.

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.21 dated 03.02.2015 (Annexure P-1) under Sections 406 and 498-A of IPC, registered at Police Station, Phillaur, District Jalandhar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 24.05.2018 (Annexure P-2), are, hereby, quashed qua the petitioner. Since the parties

have already entered into an amicable settlement in view whereof the



dispute(s) which is primarily matrimonial dispute has been resolved and the FIR itself stands quashed in view of compromise having been arrived at between the parties, the order dated 06.09.2015 vide which the petitioner has been declared as Proclaimed Offender (Annexure P-4) also stands quashed.

(SUMEET GOEL)
JUDGE

May 15, 2024
Ajay

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