

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-42021-2023 (O&M)
Date of decision: 06.05.2024

BAHADUR SINGH AND ANR

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Om Malhan, Advocate for
Mr. Nakul Sharma, Advocate
for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Manan Khetarpal, Advocate
for respondent No.2.

SUMEET GOEL, J.

CRM-45741-2023

Application is allowed as prayed for. The offences under Sections 201/506 of IPC are permitted to be added in the head note as well as prayer note in the present petition.

CRM-M-42021-2023

1. By way of present petition, the petitioners are seeking quashing of FIR No.129 dated 26.09.2019 under Sections 406, 420, 498-A, 201, 506 of IPC, registered at Police Station, Chamkaur Sahib, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 28.02.2023 (Annexure P-2), which is stated to have been effected between the parties.
2. On 24.08.2023, the following order was passed:

“1. The petitioners seek to quash the FIR No.129 dated 26.09.2019 under Sections 406/420/498-A IPC registered at Police Station Chamkaur Sahib, District Rupnagar on the basis of compromise.

2. Learned counsel for the petitioners contend that initially the allegations were levelled against the petitioners and two other relatives, who were found to be innocent and FIR has been registered only against the petitioners. The marriage of respondent No.2 was solemnized with Amritpal Singh, the deceased son of the petitioners on 20.09.2015 and two daughters have been born from the wedlock. The son of the petitioners had died in a road accident on 18.04.2018. The family dispute has been amicably settled between the parties in terms of the compromise, Annexure P-2. The petitioners shall pay a sum of Rs.13 lac to respondent No.2 on account of future maintenance. A sum of Rs.4 lac has already been paid and the balance amount of Rs.9 lac shall be paid by way of demand draft on 08.09.2023. The petitioners shall also pay the lease money to respondent No.2 with regard to the share to respondent No.2 and her children in the agricultural land situated at village Dadiana every year by way of two installments. The custody of both the minor daughters shall remain with respondent No.2. Respondent No.2 has instituted a petition under the Protection of Women from Domestic Violence Act and another one under Hindu Adoption and Maintenance Act and she will withdraw the same.

3. Notice of motion.

4. Ms. Ruchika Sabharwal, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

5. Mr. Manan Khetarpal, Advocate has appeared on behalf of respondent No.2, placed on record vakalatnama and acknowledged the fact of compromise.

6. The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 12.09.2023. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

7. The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arraigned as accused in FIR;*
- 2. Whether any accused is proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

8. To await the report, list again on 07.11.2023.”

3. Pursuant to the aforesaid order, report dated 31.10.2023 from Judicial Magistrate Ist Class, Rupnagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“1. There are two accused persons namely Bahadur Singh son of Sewa Singh and Dalbir Kaur wife of Bahadur Singh.
2. None of the accused person is declared as proclaimed offender in the present case.
3. From the statements of complainant and accused persons, compromise seems to be genuine, voluntary, and without any coercion or undue influence.
4. Both the accused persons are not involved in any other case except the present case.
5. There is only complainant namely Gagandeep Kaur D/o Amrik Singh.”*

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 petitioners 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 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.129 dated 26.09.2019 under Sections 406, 420, 498-A, 201, 506 of IPC registered at Police Station, Chamkaur Sahib, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 28.02.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 06, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No