

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42663 of 2023
DATE OF DECISION :- 12.01.2024

Rakesh Kumar ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sanjiv Kumar Yadav, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Shadab Ahmad, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 325 dated 29.08.2019 under Sections 406,498-A,323,324,120-B of IPC, registered at Police Station, Zirakpur, District S.A.S. Nagar, Mohali and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 17.08.2023 (Annexure P-3), which is stated to have been effected between the parties.

2. On 09.11.2023, the following order was passed:

“CRM-40651-2023

- 1. This is an application for impleading the applicants as petitioners No. 2 to 7.*
- 2. It has been submitted that the applicants have also arraigned as accused in the instant case.*
- 3. For the reasons stated in the application, the same is allowed. Applicants are impleaded as petitioners No. 2 to 7.*
- 4. Amended memo of parties is taken on record.*
- 5. Application is disposed of.*

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6. *Petitioners are seeking to quash the FIR bearing No.325 dated 29.08.2019 under Sections 406/498-A/323/324/120-B IPC registered at Police Station Zirakpur, District SAS Nagar Mohali on the basis of compromise.*

7. *Learned counsel for the petitioners contend that marriage of petitioner No.1 was solemnized with respondent No.2 on 18.02.2018 and a daughter has been born from the wedlock. The matrimonial dispute has been amicably settled between the parties in terms of compromise and Annexure P-3 is the affidavit of respondent No.2 in this regard. Petitioner No.1 and respondent No.2 have resumed cohabitation. Respondent No.2 is happily residing in the matrimonial house with the minor daughter. No other case is pending between the parties.*

8. *Notice of motion.*

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

10. *Mr. Shadab Ahmad, Advocate, has appeared on behalf of respondent No.2, placed on record power of attorney and acknowledged the fact of compromise.*

11. *The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 30.11.2023. 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.*

12. *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.

13. To await the report, list again on 12.12.2023.”

3. Pursuant to the aforesaid order, report dated 07.12.202 3 from Judicial Magistrate Ist Class, Dera Bassi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1.From the perusal of the above statements of parties (duly identified by counsel and investigating Officer, this Court is statisfied that the complainant and accused persons, with the intervention of respectables, have compromised the matter with each other. The following information as ordered by the Hon’ble Punjab and Haryana High Court is given as under :-

1.As per record and statement of the Investigating Officer, FIR was registered against 7 accused persons namely Rakesh Kumar Bhagwati Devi @ Bhagwanti Devi, Anjali Rani Sandeep Kumar, Sumit Kumar, Sonia and Geeta Rani, who had appeared before this Court and got their statement recorded.

2. None of the accused is absconding/P.O. in this case.

3. As per the statements recorded by the parties, this Court is of considered opinion that the compromise effected between the parties is genuine, valid, voluntary and without any coercion or undue influence.

4. As per the statement of the police official and as per record of Police Station Zirakpur the above said accused persons are not involved in any other case.

5. As per record and statement of the Investigating Officer, there is one complainant/victim namely Narinder Kaur in the present FIR. Copies of statements of parties as well as Investigating Officer are annexed herewith for your kind perusal.

Submitted please.

4. Learned counsel for respondents 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 is quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-3).

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, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, 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 wise 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) *The present matter does not fall within the exceptions as carved out in Laxmi Narayan's case (supra) i.e. heinous offence.*
- (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. 325 dated 29.08.2019 under Sections 406,498-A,323,324,120-B of IPC, registered at Police Station, Zirakpur, District S.A.S. Nagar, Mohali and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 17.08.2023 (Annexure P-3), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

12.01.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No