

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-42522-2023

Date of decision: 15.03.2024

ARJUN KUMAR

....PETITIONER

V/s

STATE OF UT CHANDIGARH AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajnikant Upadhyay, Advocate
for the petitioner.

Mr. Anil Kumar Lamdhoria, A.P.P., U.T., Chanidgarh.

Respondent No.2 in person
(Identified by ASI Rajani Kanda).

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.72 dated 20.10.2020 under Sections 323, 406, 498-A of IPC, registered at Police Station, Women, Chandigarh and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 03.05.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 19.12.2023, the following order was passed:

“This petition has been filed for quashing of FIR No.72, dated 20.10.2020 registered under Sections 323/406/498A of IPC, 1860 at Police Station Women, Chandigarh along with all consequential proceedings arising therefrom, on the basis of compromise dated 03.05.2023 (Annexure P-2) arrived at between the parties.

Counsel for the petitioner has mentioned in memo of parties of

the petition that the petitioner has not been declared as proclaimed person(s).

Respondent No.2 has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 08.02.2024 for getting their statements recorded with regard to the compromise. The Illaqa/Duty Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/proclaimed persons, in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings pending;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. Whether any other criminal case pending against the accused.*

Report of Illaqa/Duty Magistrate be awaited for 08.03.2024.”

3. Pursuant to the aforesaid order, report dated 29.02.2024 from Judicial Magistrate, Ist Class, Chandigarh, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

3. Subsequent to this statement, accused namely Arjun Kumar along with his counsel Sh. Ashok Asuri, Advocate has suffered separate statement that he has heard the statement of the complainant and have compromised the matter with the complainant voluntarily and without any threat, pressure, coercion and undue influence from any side and with his free consent and free will. He further stated that no other case FIR except the present FIR has been registered against him and he has never been declared proclaimed person by any Court of law and lastly prayed that the present FIR may kindly be quashed and he has placed on record copy of his Aadhar card as

Ex.CB.

4. Further, Assistant Sub Inspector Ravinder Singh No.3116/CP, Women Police Station, Sector 17, Chandigarh, has appeared and suffered statement that he is the investigating officer of the present case and there is one accused namely Arjun Kumar, aged 38 years, son of Sh. Ramesh Kumar, resident of HouseNo.1187, ground floor, Sector 40-B, Chandigarh and no other case is registered against the said accused in Women Police Station, Chandigarh and he has

*never been declared proclaimed offender by any Court of law.
5. The parties have been inquired regarding their compromise in Court and they have agreed that they entered into compromise with their free will. After going through the statement of parties, I am satisfied that the compromise has been entered into between the parties with their free will and without any threat, coercion or undue influence from any corner.*

6. The copies of the statement of the complainant, accused and investigating officer are annexed herewith for your kind perusal and further action.”

4. Learned counsel for respondent No.2 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.72 dated 20.10.2020 under Sections 323, 406, 498-A of IPC, registered at Police Station, Women, Chandigarh and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 03.05.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.
10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 15, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No