

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

240

CRM-M-42481-2023
Date of decision: 22.03.2024

AMIT KAUSHIK

...PETITIONER

V/s

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karan Singh, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Rampal Kaushik, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.47 dated 26.01.2023 under Sections 323, 498-A, 406, 506 of IPC, registered at Police Station City Karnal, District Karnal and all consequential proceedings arising therefrom on the basis of compromise dated 21.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 03.11.2023, the following order was passed:

“By way of this application, the applicant-petitioner seeks permission to place the copy of the Final Report, on the record as Annexure P-6.

Notice in the application.

Learned counsel appearing for respondent No.2 accepts the notice.

Mr. Apoorv Garg, learned Senior Deputy Advocate General, Haryana, who has appeared on behalf of respondent No.1 in this case in pursuance of the copy of the present application having been sent to the respondent-State in advance, also accepts the notice.

Heard.

Keeping in view the reasons as mentioned in the instant application, the same is allowed and Annexure P-6 is taken on the record.

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The petitioner herein prays for the quashing of the FIR bearing No.47 dated 26.01.2023 registered at Police Station City Karnal, District Karnal, under Sections 323, 498-A, 406 and 506 IPC as well as all the subsequent proceedings arising therefrom, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the present case.

Learned counsel appearing for the petitioner, inter-alia, contends that the subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2-complainant/wife and now, with the intervention of the respectables, the same has been resolved/settled amicably and the said settlement/compromise would promote peaceful, harmonious and cordial relations between them.

Notice of motion.

Learned State counsel and learned counsel appearing for respondent No.2 accept the notice.

Learned counsel appearing for respondent No.2 also admits the factum of the compromise having been arrived at between the parties.

Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 12.12.2023 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 22.03.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise;*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case;*
- 3. the name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed”

3. Pursuant to the aforesaid order, report dated 05.02.2024 from Chief Judicial Magistrate, Karnal, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“1. One accused, namely, Amit Kaushik is accused in the present FIR who has appeared and his separate statement has been recorded.
2. No accused is absconding nor has been declared proclaimed offender/proclaimed person.
3. One person, namely, Urvashi Kaushik is complainant in this FIR who is aggrieved. She has appeared and her statement has been recorded.
4. Case is at the stage of prosecution evidence.
5. Compromise entered between the parties is genuine, voluntary and has been arrived at between them out of their free will.
6. No other case is pending against accused.”*

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.47 dated 26.01.2023 under Sections 323, 498-A, 406, 506 of IPC, registered at Police Station City Karnal, District Karnal and all consequential proceedings arising therefrom on the basis of compromise dated 21.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.
10.

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

(SUMEET GOEL)
JUDGE

March 22, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No