



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

312

CRM-M-41214-2024
Date of decision: 20.11.2024

TEJINDER SINGH

....PETITIONER

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. H.S. Chaddha, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. P.S. Saini, Advocate
for the respondent Nos. 2 and 3.

SUMEET GOEL, J.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.124 dated 28.12.2018 under Sections 406, 498-A of IPC, registered at Police Station, Morinda, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 16.04.2024 (Annexure P-2), which is stated to have been effected between the parties.

2 On 27.08.2024, the following order was passed:

“The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.124 dated 28.12.2018, registered at Police Station Morinda, District Rupnagar, under Sections 406, 498-A IPC, on the basis of a compromise deed (Annexure P-2) executed between the parties.

The parties are alleged to have effected a compromise, as per the compromise deed, dated 16.04.2024 (Annexure P-2).

Notice of motion.

On the asking of the Court, Ms. Himani Arora, AAG, Punjab accepts notice on behalf of respondent No. 1-State and seeks time to file reply.



Mr. P.S. Saini, Advocate, accepts notice on behalf of respondents No.2 and 3 and filed his power of attorney in Court today, which is taken on record and he confirms about factum of compromise between the parties. Copies of the petition be handed over to learned counsel for the respondents during the course of the day.

The parties are directed to appear before the trial Court/Illaqa Magistrate up-to 30.09.2024 or recording of their statements. After recording the statements of all the accused, victim, complainant and injured if any, the trial Court/Illaqa Magistrate shall send a report to this Court on the following facts well before the next date of hearing:-

I. Whether a genuine compromise has been arrived at between all the affected parties

II. Whether the complainant, all the injured/victim and all the accused are party to the compromise?

III Whether during investigation, any additional accused has been added and he/she is a party to the compromise?

IV Whether any accused is a Proclaimed Offender?

V Whether after the registration of the FIR any offence was added or deleted during investigation?

VI Whether investigation is pending against any of the accused or any accused has been declared as innocent.

Adjourned to 24.10.2024 for awaiting the report of the trial Court.”

3. Pursuant to the aforesaid order, report dated 16.10.2024 from Additional Chief Judicial Magistrate, Rupnagar, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. From the statements of parties got recorded by them in the Court, it appears that. Amrik Singh (complainant), Harpreet Kaur (victim) and Tejinder Singh (accused) have effected voluntary and genuine compromise out of their own free will, without any pressure and coercion of any manner.

II. As per the statement of Investigating Officer Retired ASI Jaspal Singh, there is one victim namely Harpreet Kaur, one complainant namely Amrik Singh and one accused namely Tejinder Singh in the present case and they have made party to the compromise.

As per the statement of Investigating Officer Retired ASI Jaspal Singh, no additional accused has been added in the present case.

IV. As per the statement of Investigating Officer Retired ASI Jaspal Singh, accused Tejinder Singh has not been declared proclaimed person/proclaimed offender in the present case.



*V. As per statement of Investigation Officer Retired ASI Jaspal Singh, no offence was added or deleted during investigation after the registration of FIR.
VI. As per the statement of Investigating Officer Retired ASI Jaspal Singh, neither any investigation is pending against the accused nor accused has been declared as innocent.”*

4. Learned counsel for respondent Nos.2 and 3 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.*

The statutory provision of Section 528 of BNSS, 2023 is same as the statutory provision of Section 482 of Cr.P.C., 1973. Therefore, the above said principles of law would apply to a petition under Section 528 of BNSS, 2023 as well.

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 528 of BNSS, 2023 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.124 dated 28.12.2018 under Sections 406, 498-A of IPC, registered at Police Station, Morinda, District Rupnagar and all consequential proceedings arising therefrom on the basis of compromise dated 16.04.2024 (Annexure P-2), are, hereby, quashed qua the petitioner.
10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 20, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No