

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

230-1

CRM-M-39833-2019

Date of decision: 08.04.2024

VARINDER KUMAR @ BITTU AND ANR

....PETITIONERS

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sanjeev Duggal, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Sylvester Stephen, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.100 dated 13.07.2019 under Sections 323, 452, 354, 34 of IPC, registered at Police Station, Satnampura, District Kapurthala and all consequential proceedings arising therefrom on the basis of compromise dated 15.07.2019 (Annexure P-2) and affidavit dated 14.08.2019 (Annexure P-3), which is stated to have been effected between the parties.

2. On 05.03.2024, the following order was passed:

“Learned counsel for the petitioners and learned counsel for respondent No.2 are ad idem that due to unforeseen circumstances all the parties could not appear before the concerned trial Court for recording their statements in terms of order dated 18.09.20219 passed by this Court.

Today, a joint request has been made on behalf of the petitioners as also respondent No.2 that another opportunity may be granted to do so.

In view of the above statement, the parties are now directed to appear before the concerned trial Court/Illaq Magistrate in terms of order dated 18.09.2019 on 15.03.2024 or on a subsequent date as fixed by trial Court/Illaq Magistrate. The

parties shall be at liberty to record their statements either in person or through video conferencing before the concerned trial Court /Illaqa Magistrate.

The concerned Court is directed to send a report to this Court in terms of the earlier order dated 18.09.2019 well before the next date of hearing fixed before this Court.

Adjourned to 08.04.2024.

Photocopy of this order be placed on the connected file.”

3. Pursuant to the aforesaid order, report dated 14.12.2019 from Sub Divisional Judicial Magistrate, Phagwara has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted that in terms of the order dated 18.9.2020 passed by Honourable Punjab & Haryana High Court in Crl. Misc. No.39833 of 2019 that:-

(i) In the case titled as State of Punjab vs Varinder Kumar @Bittu and Anr FIR No.100 Dated 13.7.2019 under sections 323,452,354,34 of IPC P.S.Satnampura. Phagwara, Varinder Kumar @ Bittu and Kanti have been arrayed as accused in FIR

(ii) Complainant Kulwinder Kaur and Swaran Ram as -as accused Varinder Kumar @ Bittu and Kanti have appeared before the undersigned.

(iii) Complainant Kulwinder Kaur and Swaran Ram were recorded separately, wherein they stated that FIR No.100 Dated 13.7.2019 under sections 323, 452, 354, 34 of IPC P.S.Satnampura, Phagwara, Kapurthala registered upon their statement against accused Varinder Kumar @ Bitu and Kanti. They have reached compromised with the above named accused persons with their own free will, voluntarily without any fear, threat or coercion. Copy of compromise is Mark A They produced copy of Aadhar Card as Ex.R1 and Ex.R2(Original seen and returned) to prove their identity. There is one more accused Hari Chand s/o Raj Mal rio Village Mehtan, Tehsil Phagwara, District Kapurthala in the same FIR. There is no any other complainant and aggrieved party other than respondent arrayed in the petition. They have no objection if the case FIR against the above named accused persons are quashed.

(iv) Statement of accused namely Varinder Kumar and Kanti were also recorded, wherein he stated that FIR No.100 Dated 13.7.2019 under sections 323, 452, 354, 34 of IPC P.S.Satnampura, Phagwara, Kapurthala was registered against them on the statement of both the complainant Kulwinder Kaur and Swaran Ram. They have reached compromise with both the complainant. Copy of compromise is Mark A. Copy of his Aadhar Card are Ex.P1 and Ex.P2 (Original seen and returned)

The above statements of parties have been recorded in presence of counsel. This court is fully satisfied that compromise between the parties has been effected voluntarily without any pressure, threat or coercion. The original statements are annexed herewith for kind perusal of your goodself and necessary action, please.”

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 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. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

- i) Ranjeet Kumar versus State of H.P. & Ors. in case CRM-M-648 of 2023 decided on 08.12.2023 by the High Court of Himachal Pradesh, Shimla.*

- ii) *Arif Khan versus The State and another in case W.P. (CRL) 1064/2023 decided on 09.01.2024 by the High Court of Delhi at New Delhi.*
- iii) *Sukhchain Singh and others versus State of Punjab and others 2021(4) R.C.R. (Criminal) 81.*
- iv) *Ananda DV Vs. State and another 2021 SCC Online SC 3423.*

9. 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) *As per the report received the compromise is said to be voluntary in its nature.*
- (iv) *Complainant/victim is reported to have entered into compromise on his own volition.*

10. Consequently, the petition is allowed. FIR No.100 dated 13.07.2019 under Sections 323, 452, 354, 34 of IPC, registered at Police Station, Satnampura, District Kapurthala and all consequential proceedings arising therefrom on the basis of compromise dated 15.07.2019 (Annexure P-2) and affidavit dated 14.08.2019 (Annexure P-3), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

April 08, 2024
jatin

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No