

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-44686 of 2023
DATE OF DECISION :- 09.01.2024**

Koushik Gorai

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Mohit Garg, Advocate
for Mr. S.K. Tripathi, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. L.K. Yadav, Advocate
for Ms. Reena Rani, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 0030 dated 29.10.2018 under Sections 323/406/498-A/506 of IPC, registered at Police Station, Women West, Gurugram, District Gurugram and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 25.05.2023 (Annexure P-3), which is stated to have been effected between the parties.

2 On 11.09.2023, the following order was passed:

“By way of the instant petition, the petitioner has sought the quashing of the FIR bearing No.0030 dated 29.10.2018 registered at Police Station Women West, Gurugram, District Gurugram, under Sections 323,406, 498-A and 506 IPC, along-with all the consequent 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 for the petitioner, inter-alia, contends that subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2-wife and now, with the intervention of the respectables, they have settled/resolved the same amicably and the said settlement/compromise would promote peaceful, harmonious and cordial relations between them.

Notice of motion.

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 instant petition having been sent to the respondent-State in advance, accepts the notice.

At this stage, Mr. Maneet Kaushik, Advocate, has also put in appearance for Ms. Reena Rani, Advocate, on behalf of respondent No.2-complainant in this petition and has submitted her Power of Attorney in the Court today and the same is taken on the record. He accepts the notice on behalf of the said respondent and 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 02.11.2023 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 08.01.2024 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 10.11.2023 from Judicial Magistrate Ist Class, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In compliance of order dated 11.09.2023 passed by Hon'ble Punjab and Haryana High Court in CRM No.44686-2023 the parties have appeared before the undersigned for getting recorded their respective statements.

2. Smt Priyanka Sarkar @ Gorai, complainant and accused Koushik Gorai has appeared in person for getting statement recorded qua compromise.

3. Complainant Smt. Priyanka Sarkar @ Gorai has stated that the matter between the parties has been settled amicably and voluntarily without any force, pressure or any sort of undue influence. No grievance remains against the accused qua the complaint filed.

4. Accused Koushik Gorai also recorded his statement to the effect that the statement made by the complainant is correct and the matter has been settled amicably between them. He has further deposed that he has never been declared proclaimed offender in any case nor any such proceedings have been initiated against him. His version is verified by IO.

5. I have also inquired from both the parties, especially from complainant Smt. Priyanka Sarkar @ Gorai who has stated that the compromise has been arrived between them voluntarily and the same is not due to any threat, coercion or undue influence from the accused side and is a volunteer act of the parties.

6. So, in the view of the aforesaid facts and statement of complainant qua compromise, I am of the considered view that the compromise effected between the parties appears to be without any threat or pressure from either side and is made out of free volition of the parties.

7. Requisite report on specific points as directed vide order dated 11.09.2023 is as follows:

1. In the present case, three accused are arraigned in the FIR namely Koushik Gorai (husband), Nimai Chandra Gorai (father-in-law) and Subhdra Gorai (Mother-in-law). However, challan is filed only against one accused namely Koushik Gorai.

Accused Koushik Gorai has appeared for his statement regarding compromise.

2. As per the accused he has never been declared proclaimed offender/proclaimed person in any case nor any such proceedings have been initiated against him. His version is verified by the investigating officer.

3. There is only one victim/complainant namely Smt. Priyanka Sarkar @Gorai in the present case. Complainant Smt. Priyanka Sarkar @ Gorai as well as accused Koushik Gorai are party to the present compromise.

4. The case is fixed for arguments on application under Section 177 Cr.P.C.

5. In the view of the statement of complainant qua compromise, I am of the considered view that the compromise effected

between the parties appears to be without any threat or pressure from either side and is made out of free volition of the parties.

6.As per investigating officer, no other criminal cases are pending against the accused.

7.The requisite report, along with the original statement of parties, is being submitted as desired.”

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. 0030 dated 29.10.2018 under Sections 323/406/498-A/506 of IPC, registered at Police Station, Women West, Gurugram, District Gurugram and all consequent

proceedings arising therefrom on the basis of compromise/statements is,
hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

09.01.2024

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No