

2024:PHHC:019288

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

203

CRM-M-46424-2022

Date of decision: 12.02.2024

Raj Kumar @ Moni

....Petitioner

V/s

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Shaveta Sanghi, Advocate, for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Lokesh Sharma, Advocate for respondents No.2 and 3.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.199 dated 07.07.2014 under Sections 294, 323, 452, 509 and 325 of IPC, registered at Police Station Sadar Kanina, District Mahendergarh and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 16.09.2022 (Annexure P-3), which is stated to have been effected between the parties.

2 On 10.10.2022, the following order was passed:

"Notice of motion.

Ms. Sheenu Sura, DAG, Haryana and Mr. Lokesh Sharma, Advocate accept notice on behalf of respondent No.1 and respondent No.2, respectively.

Learned counsel for the petitioner undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.199 dated 07.07.2014 registered under Sections 294, 323, 452, 509 and 325 IPC at Police Station Sadar Kanina, district Mahendergarh, on the strength of a written compromise (Annexure P-3) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 18.10.2022 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 05.12.2022.

Till the adjourned date the Trial Court is restrained from passing of the final order.”

3. Pursuant to the aforesaid order, report dated 27.10.2022 from Judicial Magistrate, Ist Class, Kanina, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Upon complaint filed by complainant Suman wife of Krishan Kumar, present FIR was registered against accused Raj Kumar @ Moni son of Surender_only. He is the only named accused in FIR. No other named or unnamed accused is arraigned in the FIR. The only accused i.e. Raj Kumar @ Moni has appeared before Court and has made his statement (Annexure A-2) duly identified by his counsel. As per statement (Annexure A-3) of

investigating officer accused is not absconding and is not declared PO in any case.

2. The complainant/injured Suman, victim Sher Singh and accused Raj Kumar @ Moni have amicably, voluntarily compromised the matter amongst themselves. Compromise Ex.PX appears to be made voluntarily and appears to be genuine.

3. There is only single accused namely Raj Kumar @ Moni in the present case and he is party to the compromise.

4. As per statement of investigating officer accused has never been declared proclaimed offender.

5. As per statement of investigating officer, following cases have/had been registered against accused.

(i) FIR No.191 dated 21.05.2015, under Sections 323, 325 & 506 of IPC, Police Station Kanina and the challan of the same has been filed before the court.

(ii) FIR No.284 dated 30.08.2016, under Sections 148, 149, 212, 323, 324, 325, 326, 452 & 506 of IPC Police Station, Kanina and the challan of the same has been filed before the court and the case is pending for 01.11.2022 for prosecution evidence.

(iii) FIR No.66 dated 26.04.2006, under Sections 279 & 337 of IPC, Police Station Kanina in which accused has been acquitted.

(iv) FIR No.19 dated 18.02.2010, under Section 279 & 337 of IPC, Police Station Kosli, District Rewari in which accused confessed his guilt and a fine of Rs.4500/- was imposed upon accused on 05.04.2012.

6. The case is at the stage of defence evidence and arguments.

7. In view of statements made by complainant/injured Suman, victim Sher Singh as well as accused Raj Kumar @ Moni, this court is satisfied that the complainant/injured, victim as well as accused have compromised the matter amongst themselves voluntarily and without any threat, pressure or coercion. Copies of statements of complainant, victim, accused and investigating officer together with compromise Ex.PX are being sent herewith for your kind perusal.”

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 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 the 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 the 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) *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.199 dated 07.07.2014 punishable for the offences under Sections 294, 323, 452, 509

and 325 of IPC, registered at Police Station Sadar Kanina, District Mahendergarh and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 16.09.2022 (Annexure P-3), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 12, 2024
poonam

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