



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
231

CRM-M-43278-2024
Date of decision: 28.10.2024

GURWINDER SINGH @ GOSHA SINGH
V/s
STATE OF HARYANA AND OTHERS
....PETITIONER
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lakhwinder Singh, Advocate
for the petitioner (Through VC).

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Kuldeep Singh, Advocate
for respondent No.2.

SUMEET GOEL, J.

Reply by way of an affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Ratia District Fatehabad (Haryana) has been filed on behalf of respondent-State. The same be taken on record.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.181 dated 05.07.2022 under Sections 363, 366 of IPC and Section 9 of Child Marriage Act, (Annexure P-1) registered at Police Station Sadar Ratia District Fatehabad and all consequential proceedings arising therefrom on the basis of compromise in the shape of affidavit dated 02.11.2023 (Annexure P-4), which is stated to have been effected between the parties.

2 On 23.09.2024, the following order was passed:

“The parties are directed to get their statements recorded qua the factum of compromise in the following manner:



(i) The petitioner shall appear before the trial Court/Illaqa Magistrate concerned on 27.09.2024 or any date thereafter as fixed by trial Court/Illaqa Magistrate for recording statements of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaqa Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion. The trial Court/Illaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioner, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 28.10.2024.”

3. Pursuant to the aforesaid order, report dated 09.10.2024 from

Judicial Magistrate, Ist Class, Ratia, has been received, which is taken on



“The present report is being prepared in compliance of directions of the Hon'ble Punjab & Haryana High Court in CRM No. M-43278-2024-titled as Gurwinder Singh @ Gosha Singh Vs. State of Haryana and Nihal Singh son of Inder Singh, resident of village Aleeka, Tehsil Ratia, Fatehabad, whereby the Illaqa Magistrate/Duty Magistrate Court was directed to record the statement of all the parties and to send report regarding compromise arrived at between the parties. Present case is triable by court of Sessions and challan had been presented and now the case is fixed for 10.10.2024 for presence of accused and for committal to the Court of Sessions. Further, in compliance of the order of the Hon'ble High Court, the Complainant, Victim as well as accused appeared before the Court on 27.09.2024 for recording their statements in pursuance of order of Hon'ble Punjab & Haryana High Court, Chandigarh.

2. Statements of complainant Nihal Singh, victim Smt. Rinku Rani and accused Gurwinder Singh @ Gosha Singh have been recorded on solemn affirmation wherein they stated that they have compromised the matter voluntarily, without any pressure or coercion. They stated that they have suffered the statements voluntarily, out of their free will. Accused also suffered his statement to the effect that he has never been declared proclaimed offender/person by any court. There is no other accused except him in the present FIR. It is pertinent to mention here that as per record, he has never been declared proclaimed person/offender in this particular. Complainant in this case is Nihal Singh and Rinku Rani is the victim in said FIR and the FIR was registered against accused Gurwinder Singh @ Gosha Singh and challan has been filed against accused.

3. After careful perusal of the statement given on solemn affirmation by the complainant as well as accused vis-a-vis compromise concerning the present case and after careful analysis of the same, this Court is convinced that the compromise between the parties in question appears to have been entered into voluntarily without any pressure and no such material is available on record which can reflect that the compromise has been effected under fear, threat, pressure or coercion. Therefore, the above report is forwarded for your kind perusal, 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 petitioner are quashed.



5. Similarly, learned State counsel has stated that he has no objection in case the FIR is quashed based upon the affidavit (Annexure P-4).

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.181 dated 05.07.2022 under Sections 363, 366 of IPC and Section 9 of Child Marriage Act, (Annexure P-1) registered at Police Station Sadar Ratia District Fatehabad and all consequential proceedings arising therefrom on the basis

of compromise in the shape of affidavit dated 02.11.2023 (Annexure P-4),
are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

October 28, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No