

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

**CRM-M-46533-2023**  
**Date of decision: 09.01.2024**

Kuldeep Sharma @ Kuldip Sharma

....Petitioner

V/s

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr.GPS Pathania, Advocate,  
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

Mr.Virender Partap Singh, Advocate,  
for respondent No.2.

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**SUMEET GOEL, J.**

1. By way of present petition, the petitioner is seeking quashing of FIR No.42 dated 23.05.2023 under Sections 354, 354-B, 323 IPC, registered at Police Station, Shahpur Kandi, District Pathankot and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 21.08.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 15.09.2023 (Interim Order), the following order was passed:

*“1. The petitioner is seeking to quash FIR No. 42 dated 23.05.2023 under Sections 354, 354-B, 323 IPC registered at Police Station Shahpur Kandi, District Pathankot on the basis of compromise.*

*2. Learned counsel for the petitioner contends that as per the allegations, the petitioner is working as a medical practitioner and he had inappropriately touched respondent No.2 while examining*

*her and subsequently, inflicted injuries. The injuries fall under Section 323 IPC. The dispute has been amicably settled between the parties in terms of compromise (Annexure P-2). An amicable settlement will help in maintaining cordial relations between the parties in future.*

*3. Notice of motion.*

*4.. Ms. Ruchika Sabherwal, DAG Punjab accepts notice on behalf of the State*

*5. Mr. Ankit Rana, Advocate has put appearance on behalf of respondent No.2 and has acknowledged the fact of compromise.*

*6. Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 06.10.2023 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-*

*1. Number of persons arraigned as accused in FIR.*

*2. Whether any accused is proclaimed offender.*

*3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

*4. Whether the accused persons are involved in any other case or not.*

*5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

*7. To await the report, adjourned to 28.11.2023.”*

3. Pursuant to the aforesaid order, report dated 11.10.2023 from Chief Judicial Magistrate, Pathankot, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“I have the honour to submit that vide order dated 15.09.2023 passed by Hon'ble Punjab & Haryana High Court in CRM-M-46533-2023 titled as "Kuleep Sharma @ Kuldip Sharma vs.*

*State of Punjab and another" the parties were directed to appear before the Illaqa Magistrate/ trial Court for recording their statements and this court has been directed to send the report before the next date i.e. 28.11.2023.*

*In compliance thereof, complainant Sonam Sharma has suffered statement that said compromise is arrived between her and Kuldeep Sharma with intervention of respectables. Said compromise is voluntarily, without any force or coercion or undue influence and pressure by accused or any other side. She is only victim and complainant in this case. She does not want to proceed against the accused in the FIR No.42 dated 23.05.2022, under Ss.354, 354-B, 323 IPC registered at Police Station Shahpurkandi, Pathankot. She further deposed that accused has not involved in any other criminal case and has never been declared as proclaimed offender. She has no objection, if the FIR against the accused is quashed.*

*Accused Kuldeep Sharma has suffered statement that he is arrayed as accused in this case. He has voluntarily compromised the matter in FIR No.42 dated 23.05.2023, under Ss.354, 354-B, 323 IPC registered at Police Station Shahpurkandi, Pathankot with complainant Sonam Sharma with the intervention of respectables without any pressure and voluntarily. He has never been declared proclaimed offender by any court of law and he is not involved in any other FIR. He prayed that FIR along-with subsequent proceedings may kindly be quashed against him.*

*Investigating Officer ASI Rajesh Singh, No.744/Ptk has also appeared and suffered statement that he is investigating officer in FIR No.42 dated 23.05.2023, under Ss.354, 354-B, 323 IPC registered at Police Station Shahpurkandi. There is only one person namely Kuldeep Sharma is arrayed as accused. There is only one complainant Sonam Sharma in this*

*case. Accused has not been declared proclaimed offender in this case and there is no other case registered against the accused.*

*Keeping in view all aspects and statements of complainant and the accused person, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is genuine, voluntary and without any coercion or undue influence. Report of this Court is as under:-*

*(i) As per record, only one person namely Kuldeep Sharma is arrayed as accused.*

*(ii) As per record, none of the accused has been declared as proclaimed offender.*

*(iii) Accused Naresh Kumar Sharma is appearing before the court.*

*(iv) As per statements of parties, compromise is genuine, voluntary and without any coercion or undue influence.*

*(v) As per record, accused is not involved in any other FIR.*

*(vi) Statement of Investigating Officer ASI Rajesh Singh is recorded. As per statement of I.O., there is only one victim/complainant in this case.*

*Report along with copies of statements of complainant and accused are submitted, with regards, as directed.”*

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 is 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 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. 42 dated 23.05.2023 under Sections 354, 354-B, 323 IPC, registered at Police Station, Shahpur Kandi, District Pathankot and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 21.08.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)  
JUDGE

January 09, 2024  
*poonam*

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