

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-48526-2023

Date of decision: 07.02.2024

Maninder Singh

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gaurav Jaglan, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

Ms. Jyoti Chahal, Advocate for

Mr. Surjeet, Advocate for respondent No.2

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0164 dated 24.12.2019 under Sections 323/34/406/498-A/506 of IPC, registered at Police Station, Women West, Gurugram, and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 10.10.2019 (Annexure P-2), which is stated to have been effected between the parties.

2 On 11.12.2023, the following order was passed:

“1. The petitioner seeks to quash the FIR No.0164 dated 24.12.2019 under Sections 323/34/406/498-A/506 IPC registered at Police Station Women West, Gurugram, on the basis of compromise.

2. Learned counsel for the petitioner contends that the FIR was registered against the petitioner and three other relatives, who were found innocent during the course of investigation and challan has been presented only against the petitioner. The marriage of the petitioner was solemnized with respondent No.2 on 30.01.2013 and a daughter has been born from the wedlock The matrimonial dispute has been amicably settled between the parties in terms of compromise, Annexure P-2. The petitioner and respondent

No 2 have resumed cohabitation. Respondent No.2 alongwith minor daughter is happily residing in the matrimonial house with petitioner.

3. *Notice of motion.*

4. *Mr. Ranvir Singh Arya, Additional Advocate General, Haryana, accepts notice on behalf of respondent No. 1-State.*

5. *Mr. Surjit, Advocate, has appeared on behalf of respondent No. 2, placed on record vakalatnama and acknowledged the fact of compromise.*

6. *The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 09.01.2024. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.*

7. *The learned Illaqa Magistrate/trial Court 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.

8. *To await the report, list again on 07.02.2024.”*

3. Pursuant to the aforesaid order, report dated 31.01.2024 from Judicial Magistrate First 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 11.12.2023 passed by Hon'ble Punjab & Haryana High Court in CRM-M-48526 of 2023 the parties have appeared before the undersigned for getting recorded their respective statements.

Complainant and accused appeared before the Court in person. A perusal of the case file reveals that the trial Court has received a certified copy of order dated 11.12.2023 passed by Hon'ble Punjab & Haryana High Court in CRM- M-48526 of 2023 titled as 'Maninder Singh Vs. State of Haryana and Anr'. A perusal of the said order reveals that the Hon'ble High Court has directed the trial Court to record the genuineness of compromise on or before

the date fixed in the instant petition specifically with regard to the following facts:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the accused person are involved in any other case or not.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 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.*

In compliance of said order of Hon'ble High Court of Punjab & Haryana Chandigarh.

As regard to the point no. 1 :-There is only one accused i.e. Maninder S/o Amar Singh R/o H.No.658/15, Mohalla Panchawala, Qutubpur, Rewari.

As regard to the point no. 2:-The above named accused is not a proclaimed offender, as per report obtained from P.S. Sector-53. (Report annexed with present case).

As regard to the point no. 3:- The present accused is not involved in any other case.

As regard to the point no.4:- In their respective statements, they stated that they have voluntarily compromised their dispute and now they have no objection if the present criminal proceedings are quashed by the Hon'ble Punjab & Haryana High Court in terms of their compromise.

As regard to the point no. 5:- The statements of the complainant Jyoti W/o Maninder R/o 58/15, Mohalla Panchawala, Qutubpur, Rewari. and the accused Maninder S/o Amar Singh R/o H.No.658/15, Mohalla Panchawala, Qutubpur, Rewari and the concerned SHO/IO were recorded.

Now, the original statements of the parties be sent to the Hon'ble Punjab & Haryana High Court through proper channel forthwith. Copy of this order shall also be tagged with the statements. The carbon copy of the statements are retained on the case file"

4. Learned counsel for respondent 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 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 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 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 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) 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.0164 dated 24.12.2019 under Sections 323/34/406/498-A/506 of IPC, registered at Police Station, Women West, Gurugram and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 27.09.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 07, 2024
Ajay

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