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

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CRM-M-45992 of 2024 (O&M)

DATE OF DECISION :- 13.12.2024

Jaswant Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

CRM No. 48307 of 2024

Issue notice of the application in hand to the parties opposite.

At the asking of the Court, Mr. Adhiraj Singh, AAG, Punjab appears and accepts notice for respondent No. 1-State of Punjab.

Mr. G.S. Rawat, Advocate appears for respondent No. 2.

Having heard learned counsel for the parties and upon perusal of the case file, this Court deems it appropriate to restore the main case to its original number and status.

Ordered accordingly.

List the main case today itself i.e. 13.12.2024.

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1. By way of present petition, the petitioner is seeking quashing of FIR No.46 dated 22.05.2021, under Section 498-A IPC, 1860, registered at Police Station Sadar Nawanshahar, District SBS Nagar and all consequential proceedings arising therefrom on the basis of compromise by

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way of joint statement dated 18.10.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 20.09.2024, the following order was passed:

“1. The present petition has been filed under Section Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of FIR No.46 dated

22.05.2021, under Section 498-A IPC, 1860, registered at Police Station Sadar Nawanshahr, District SBS Nagar (Annexure P-1), on the basis of compromise by way of joint statement dated 18.10.2023 (Annexure P-2).

2. The FIR was registered at the instance of respondent No.2 on account of a matrimonial dispute, which now stands settled. The matter has been compromised between the parties and the parties have filed a joint divorce petition under Section 13-B of the Hindu Marriage Act, 1955. The joint statement of the parties on first motion has been recorded on 18.10.2023 (Annexure P-2). The marriage between the parties stands dissolved vide decree of divorce dated 09.07.2024, passed by the Family Court, SBS Nagar (Annexure P-3). As per the joint statement (Annexure P-2), respondent No.2 does not want to take action against the petitioner in the present FIR.

3. Notice of motion.

4. On the asking of the Court, Ms. Himani Arora, AAG, Punjab accepts notice on behalf of respondent No.1-State of Punjab.

5. Mr. G.S. Rawat, Advocate, accepts notice on behalf of respondent No.2 and filed memo of appearance, which is taken on record. He confirms about

factum of compromise between the parties and seeks a short accommodation to file ‘vakalatnama’ in the Registry.

6. Copies of the petition be handed over to learned counsel for the respondents during the course of the day.

7. The parties are directed to appear before the trial Court/Illaq



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Magistrate on or before 22.10.2024 for recording of their statements. After recording the statements of all the accused, victim, complainant and injured if any, the trial Court/Illaq Magistrate shall send a report to this Court on the following facts well before the next date of hearing:-

I. Whether a genuine compromise has been arrived at between all the affected parties?

II. Whether the complainant, all the injured/victim and all the accused are party to the compromise?

III. Whether during investigation, any additional accused has been added and he/she is a party to the compromise?

IV. Whether any accused is a Proclaimed Offender?

V. Whether after the registration of the FIR any offence was added or deleted during investigation?

VI. Whether investigation is pending against any of the accused or any accused has been declared as innocent?

8. Adjourned to 20.11.2024, awaiting the report of the trial Court.”

3. Pursuant to the aforesaid order, report dated 19.11.2024 from Judicial Magistrate, Ist Class, Shaheed Bhagat Singh Nagar, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“The trial court was directed to furnish report specifying the following:-

Ques 1. Whether a genuine compromise has been arrived at between all the affected parties?

Ans.) As per the statements suffered by the parties and duly counter- signed by their respective counsels, the compromise seems to be genuine, out of free will of the parties and voluntarily.

Ques 2. Whether the complainant, all the injured/victim and all the accused are party to the compromise?

Ans.) As per the I.O, there is only one complainant/injured/victim in the present FIR, namely Rajni Bala and she is party to the compromise. Similarly as per IO, there is only one accused in present FIR namely Jaswant Singh, and he is also party to compromise.



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Ques 3. Whether during investigation, any additional accused has been added and he/she is a party to the compromise?

Ans.) As per the LO, during investigation no additional accused has been added.

Ques 4. Whether any accused is a Proclaimed Offender?

Ans.) As per the I.O, no accused is Proclaimed Offender.

Ques 5. Whether after the registration of the FIR any offence was added or deleted during investigation? Ans.) As per the LO, after registration of the FIR, no offence was added or deleted during investigation.

Ans.) As per the I.O, after registration of the FIR, no offence was added or deleted during investigation.

Ques 6. Whether investigation is pending against any of the accused or any accused has been declared as innocent ?

Ans.) As per the I.O, Investigation is not pending against any of the accused. However, two persons namely Balwant Singh son of Rakha Singh and Reena wife of Balwant Singh were declared as innocent during inquiry and challan was presented against Jaswant Singh only.”

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 compromise by way of joint statement (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 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

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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*



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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.46 dated 22.05.2021, under Section 498-A IPC, 1860, registered at Police Station Sadar Nawanshahar, District SBS Nagar and all consequential proceedings arising therefrom, on the basis of compromise by way of joint statement (Annexure P-2), are, hereby, quashed qua the petitioner.

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

(SUMEET GOEL)
JUDGE

13.12.2024
P.Singh

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No