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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48731-2023 (O&M)
Date of Decision: 24.01.2024

TARUN ARORA

.. Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Chander Shekhar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Arnav Kumar, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0520 dated 29.08.2022 under Section 67(A) of Information Technology Act, 2000 and Section 354-D of IPC, registered at Police Station Ambala Cantt, District Ambala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 05.05.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 30.10.2023, the following order was passed:

“....The petitioner herein prays for the quashing of the FIR bearing No.0520 dated 29.08.2022 registered at Police Station Ambala Cantt, District Ambala, under Section 67(A) of the Information Technology Act, 2000 and Section 354-D IPC as well as all the consequential proceedings arising therefrom, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the present case.

Learned counsel for the petitioner, inter-alia, contends that the subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2-complainant/wife and now, with the intervention of the respectables, the same stands resolved/settled

amicably and the said settlement/compromise would promote peaceful, harmonious and cordial relations between them.

Notice of motion.

Mr. Kirpal Singh Thakur, learned Assistant Advocate General, Haryana, who has appeared on behalf of respondent No.1 in this case in pursuance of the copy of the instant petition having been sent to the respondent-State in advance, accepts the notice.

At this stage, Mr. Arnav Kumar, Advocate, has also put in appearance on behalf of respondent No.2-complainant in this case and has submitted his Memorandum of Appearance in the Court today and the same has been placed on the file. He accepts the notice on behalf of the said respondent and also admits the factum of the compromise having been arrived at between the parties.

Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 06.11.2023 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 23.01.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise;*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case;*
- 3. the name(s) of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed.

Power of Attorney on behalf of respondent No.2 be also filed on or before the date fixed.”

3. Pursuant to the aforesaid order, report dated 14.11.2023 from Ld.

Addl. District and Sessions Judge, Ambala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“From the statements which the parties have got recorded, it is clear that Tarun Arora is only one arrayed as accused in above said Case and Ms, Sheetal is sole

complainant and both parties have entered into compromise. It is also matter of record that the accused has never been declared a proclaimed offender in this case, nor proceedings have been initiated or pending decision in this case. Though, the accused has two more cases pending but quashing proceedings in respect of those on the basis of compromise are pending adjudication before Hon'ble High Court,

On the date of recording statements of the parties i.e. 06.11.2023, the present trial is fixed for 14.11.2023, for consideration on charge.

This Court is of the opinion that the Compromise is genuine, voluntary, and without any coercion or undue influence.”

4. Learned counsel for respondents 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 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, 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) 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.0520 dated 29.08.2022 under Section 67(A) of Information Technology Act, 2000 and Section 354-D of IPC, registered at Police Station Ambala Cantt, District Ambala and all consequent proceedings arising therefrom on the basis of

compromise/affidavit dated 05.05.2023 (Annexure P-2), is, hereby, quashed
qua the petitioner.

24.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No