

121

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

CRM-M-51305-2022 (O&M)

Date of Decision: 09.02.2024

GURPREET @ NONI AND OTHERS**.. Petitioners****Vs.****STATE OF PUNJAB AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Kulwinder Kaur, Advocate for
Mr. Rajeev K. Kapila, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Raman Kumar, Advocate for respondents No.2 and 3.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0112 dated 09.10.2022, registered under Sections 323, 452, 354-B, 506, 148 and 149 IPC at PS Mehtiana, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 19.10.2022 (Annexure P-2), which is stated to have been effected between the parties.

2 On 13.02.2023, the following order was passed:

“This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.0112 dated 09.10.2022, registered under Sections 323, 452, 354-B, 506, 148 and 149 IPC at PS Mehtiana, District Hoshiarpur (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise said to have been entered into between the parties dated 19.10.2022 (Annexure P-2).

Notice of motion.

Mr. Amit Shukla, Assistant Advocate General, Punjab appears and accepts notice on behalf of respondent No.1-State. Mr. Raman Kumar, Advocate, has

put in appearance on behalf of respondents No.2 and 3, by filing power of attorney and the same is taken on record.

Let the parties appear before the trial Court/Duty Magistrate on 22.03.2023 or any other date convenient to the Court, for recording their statements with regard to compromise. The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties: The trial Court/Duty Magistrate shall also furnish the following information:

1. Whether there is any other accused, apart from the petitioners arrayed in this petition.

2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.

3. Whether the parties are involved in any other criminal case.

4. Whether any of the parties has been declared a proclaimed offender.

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e., 09.05.2023.”

3. Pursuant to the aforesaid order, report dated 18.04.2023 from ld. JMIC, Chandigarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

<i>1. Whether there is any other accused, apart from the petitioners arrayed in other the this petition;</i>	<i>There is no other accused has been arrayed in the present case apart from the accused/petitioners Gurpreet @ Noni, Nasib Chand @ Pamma, Kulwinder Kaur, Sarbjit Kaur, Manisha Rani, Manpreet Kaur and Paramjit @ Akki</i>
<i>2. Whether there is any other complainant or aggrieved party, apart from the respondents arrayed in the petition,</i>	<i>Apart from the respondents No.2/complainant Resham Kaur and injured/respondent No.3 Reena, there is no other complainanht or aggrieved party in the present case.</i>
<i>3. Whether the parties are involved in any other criminal case;</i>	<i>As per the statement of I.O ASI Sanjiv Kumar from Police Station Mehtiana apart from the present case there are three other FIRs have</i>

	<i>been registered against the accused/ petitioner Nasib Chand @ Pamma. He stated that two FIRS have been registered against accused/petitioner Sarabjit Kaur. He stated that no other case is pending and registered against the accused/petitioners Gurpreet Singh @Noni, Manisha Rani, Manpreet Kaur, Kulwinder Kaur and Paramjit @Akki except the present case. He stated that none of the accused has been declared proclaimed offender in the present case or in any other case.</i>
<i>4. Whether any of the parties has been declared a proclaimed offender.</i>	<i>As per the statement of I.O ASI Sanjiv Kumar none of the party has been declared proclaimed offender in the present case or in any other case.</i>

4. Learned counsel for respondents No.2 and 3 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 petitioners 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

- (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.0112 dated 09.10.2022, registered under Sections 323, 452, 354-B, 506, 148 and 149 IPC at PS Mehtiana, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 19.10.2022 (Annexure P-2), are, hereby, quashed qua the petitioners.

09.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No