

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

279

CRM-M-49771 of 2023

DATE OF DECISION :- 04.03.2024

Parkash Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Viney Saini, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Arun Sharma, Advocate

for Mr. Kuldeep Singh Rawat, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 0224 dated 18.12.2021 under Sections 323,406,498A,506 of IPC, registered at Police Station, Sector-9, Ambala City and all consequential proceedings arising therefrom on the basis of compromise dated 13.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 03.10.2023, the following order was passed:

“By way of the instant petition, the petitioner has sought the quashing of the FIR bearing No.0224 dated 18.12.2021 registered at Police Station Sector-9, Ambala City, District Ambala, under Sections 323, 406, 498-A and 506 IPC, along-with all the subsequent 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-wife but now, with the intervention of the respectables, the same stands settled/resolved amicably and the said compromise would promote cordial, peaceful and harmonious relations between them.

Notice of motion.

Mr. Apoorv Garg, learned Senior Deputy Advocate General, Haryana, who has appeared on behalf of respondent No.1 in this case in pursuance of the copy of the present petition having been sent to the respondent-State in advance, accepts the notice.

At this stage, Mr. Kuldeep Singh Rawat, Advocate has put in appearance on behalf of respondent No.2 and has submitted his Power of Attorney in the Court today and the same is taken on the record. He accepts the notice on behalf of his client 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 18.01.2024 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 04.03.2024 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.”

3. Pursuant to the aforesaid order, report dated 05.02.2024 from Judicial Magistrate Ist Class, Ambala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Statement of complainant Ms.Sushma and accused Parkash (Annexure 1) has been recorded on solemn affirmation in which they stated that they have compromised the matter with each other voluntarily and without any fear or pressure.

2. After careful perusal of the statement given on solemn affirmation by the complainant as well as accused concerning the present case and after careful analysis of the same, this court is convinced that the compromise between the parties in question is genuine and no such material is available on record which can reflect that the compromise has been effected under fear, threat, pressure or coercion. Therefore, this court is of the thoughtful opinion that the available material on record is in favour to reflect a valid compromise between the parties.

3. As per statement of parties, only one accused arrayed in this case and no one was declared as proclaimed offender/absconding. Except Ms.Sushma, there is no other complainant. Case is fixed for prosecution evidence. Accused has not been involved in any other case and he has filed his affidavit in this regard.

4. All accused and complainant/victims are party to compromise.

Therefore, the above mentioned facts and circumstances, as part of report are detailed for your honour's kind information, please.

Submitted please.”

4. Learned counsel appearing 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 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) 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. 0224 dated 18.12.2021 under Sections 323,406,498A,506 of IPC, registered at Police Station, Sector-9, Ambala City and all consequential proceedings arising therefrom on the basis of compromise dated 13.09.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

04.03.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No