

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

284

CRM-M-47884-2024

Date of decision: 07.11.2024

BITTU

...PETITIONER

V/s

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Kashyap, Advocate  
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Digvijay Lambraa, Advocate  
for respondent No.2.

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SUMEET GOEL, J.

The present petition has been filed on 09.09.2024 under Section 482 of Cr.P.C. for quashing of FIR.

As per the judgment rendered by this Court titled as '*Abhishek Jain Vs. State of U.T. Chandigarh and another (CRM-M-31808-2024:2024:PHHC:085784)*', the present petition is not maintainable under Section 482 of Cr.P.C. for quashing of FIR. However, keeping in view the entirety of facts and circumstances of the case especially that the present petition pertains to quashing of FIR on basis of compromise, the present petition is directed to be considered as a petition under Section 528 of BNSS, 2023.

1. The present petition has been filed for quashing of FIR No.129 dated 06.03.2023 under Section 365 of IPC (later on Sections 363, 366 and 376(2)(n) of IPC and Section 6 of POCSO, 2012 were added) registered at



Police Station Old Industrial, District Panipat and all consequential proceedings arising therefrom on the basis of compromise dated 21.04.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 24.09.2024, the following order was passed:

*“This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.129 dated 06.03.2023 under Section 365 of the Indian Penal Code, 1860 (for short ‘IPC’) (Sections 363, 366, 376(2)(n) of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Police Station Old Industrial Panipat, District Panipat (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of compromise dated 21.04.2023 (Annexure P-2).*

*Learned counsel for the petitioner, inter alia, contends that the petitioner and respondent No.3 were in love with each other and their relationship was opposed to respondent No.2. Both of them eloped and performed marriage and out of their wedlock, a baby girl was born and her birth certificate is available on record as Annexure P-4. Further, respondent No.2 and respondent No.3 have been examined by learned trial Court and both of them have not supported the case of the prosecution and as such, they turned hostile. Now for the sake of welfare of the child and respondent No.3, a compromise has been effected between the parties. Learned counsel for the petitioner submits that case of the petitioner is squarely covered by the judgment of the Hon’ble Apex Court in Dhandapani Vs. The State by The Inspector of Police, 2022 SCC Online SC 1056, Full Bench judgment of the Delhi High Court passed in Court on its own motion (Lajja Devi) Vs. State’ 2012 (4) CCR 72 and of this Court in Devendranath Vs. State of U.T. Chandigarh and Others, CRM-M-23281-2023.*

*Learned State counsel appears on advance notice and seeks time to verify the factum of marriage between the petitioner and respondent No.3 as well as birth of a baby girl out of this wedlock.*

*Adjourned to 25.10.2024.*

*In the meanwhile, the parties are directed to appear before learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO*



*proceedings are pending against any of the party on or before the date fixed.*

*Learned counsel for the petitioner undertakes to secure presence of respondents No.2 & 3 at the time of recording the statements in terms of the compromise.*

*A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.”*

3. Pursuant to the aforesaid order, report dated 15.10.2024 from Additional Session Judge/Fast Track Court (POCSO) Panipat, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“Vide order dated 24.09.2024 passed by Hon'ble Justice Harpreet Singh Brar. Hon'ble Judge, Hon'ble Punjab & Haryana High Court in CRM-M-47884-2024(O&M), 1, being the Trial Court where the said case (FIR No. 129 of 2023) qua accused/petitioner Bittu is pending, has been directed to record statements of the parties and thereafter, to send report, to the Hon'ble High Court, regarding the voluntariness of the compromise. The statements of the Investigating officer, Victim and accused are recorded. In my opinion, in view of the present separate statements of Victim, complainant and accused the matter has been compromised between the said parties voluntarily, without any pressure, coercion and undue influences from any corner. As per the statement of Investigating officer, there is no co-accused in this case and no PO proceeding is pending against any party in this case.”*

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 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 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 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.129 dated 06.03.2023 under Section 365 of IPC (later on Sections 363, 366 and 376(2)(n) of IPC and Section 6 of POCSO, 2012 were added) registered at Police Station Old Industrial, District Panipat and all consequential proceedings arising therefrom on the basis of compromise dated 21.04.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

10. Since FIR No.129 dated 06.03.2023 under Section 365 of IPC (later on Sections 363, 366 and 376(2)(n) of IPC and Section 6 of POCSO, 2012 were added) registered at Police Station Old Industrial, District Panipat, stands quashed, petitioner, if in custody, be released forthwith qua this FIR.

**(SUMEET GOEL)**  
**JUDGE**

November 07, 2024

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No