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

CRM-M-44169-2019 (O&M)

Date of Decision: 25.01.2024

SAHIL JAIN AND OTHERS**.. Petitioners****Vs.****STATE OF PUNJAB AND ANOTHER****..Respondents****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Piyush Sharma, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

None for respondent No.2.

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SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.164 dated 29.10.2017 under Sections 498-A/323/506/149 of IPC (Section 406 IPC was added later on), registered at Police Station Kulgarhi, District Ferozepur and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 13.09.2019 (Annexure P-2), which is stated to have been effected between the parties.

2 On 24.02.2020, the following order was passed:

“The parties are present in Court today in compliance of order dated 17.10.2019.

Learned counsel for the petitioners submits that there is a possibility of reconciliation between the petitioner and respondent No.2.

On request, adjourned to 23.04.2020.

Meanwhile, parties are directed to present themselves before the Illaqa Magistrate/trial Court on 23.03.2020 for getting their statements recorded with regard to the factum of compromise so effected between them. The Illaqa Magistrate/trial Court is directed to record the statements of both the parties specifying the following:

i) The name of the complainant and all accused arrayed in the FIR; whether all of them have appeared and made their respective statements in support of the compromise so effected between them.

ii) Whether any of the accused has been declared a Proclaimed Offender.

iii) The stage of trial/proceedings;

iv) If the compromise so arrived at between the parties is genuine, voluntarily and out of free will.

The Illaqa Magistrate/trial Court is further directed to send a report along with statements of the parties with regard to the validity or otherwise of the compromise so effected between the parties.”

3. Pursuant to the aforesaid order, report dated 11.09.2020 from Id.

JMIC, Ferozepur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Complainant in the said FIR is Khushboo and the accused persons are namely Sahil Jain, Savita Jain, Naresh Jain, Poonam Jain, Parkash Jain, Seema Dhingra and Kewal Krishan Dhingra. All the said persons have appeared and made their respective statements with regard to compromise.

2. None of the accused persons has been declared proclaimed offender.

3. The case is at investigation stage and the final report under Section 173 Cr.P.C is ready but not yet filed in the court.

4. The compromise so arrived between the parties seems to be valid, genuine, voluntary and out of their free will.”

4. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

5. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

6. 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.***

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.*

7. 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.

8. Consequently, the petition is allowed. FIR No.164 dated 29.10.2017 under Sections 498-A/323/506/149 of IPC (Section 406 IPC was added later on), registered at Police Station Kulgarhi, District Ferozepur and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 13.09.2019 (Annexure P-2), is, hereby, quashed qua the petitioners.
9. Liberty is reserved in favour of respondent No.2 to seek recall of this order on showing sufficient cause.

25.01.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No