

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

CRM-M-49634 of 2023

DATE OF DECISION :- 02.02.2024

Jaswant Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sartaj Singh Thakur, Advocate for the petitioners.

Mr. Anup Singh, AAG, Punjab.

Mr. Ajay Kumar Chaudhary, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of Complaint Case No. COMI No. 66/2017 dated 03.11.2017 under Sections 452,380,323,427,354,504,506,34 of IPC and all consequent proceedings arising therefrom including the summoning order dated 28.08.2023 passed by the Court of learned SDJM, Mukerian (Anexure P-2) on the basis of compromise deed dated 20.09.2023 (Annexure P-4) which is stated to have been effected between the parties.

2. On 03.10.2023, the following order was passed:

“Both the petitioners herein seek the quashing of the Complaint Case bearing COMI No.66 of 2017 dated 03.11.2017 instituted under Sections 452, 380, 323, 427, 354, 504 and 506 read with Section 34 IPC, along-with all the subsequent proceedings arising therefrom, including the summoning order Annexure P-

2 passed by learned Sub Divisional Judicial Magistrate, Mukerian, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the aforesaid case.

Learned counsel for the petitioners, inter-alia, contends that the petitioners and the complainant happen to be the neighbours and the subject Complaint Case had been filed due to the dispute arisen out of some misunderstanding between them 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. Virat Rana, learned Assistant Advocate General, Punjab, 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. Ajay Kumar Chaudhary, 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 14.11.2023 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 02.02.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the subject Complaint Case 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.

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

3. Pursuant to the aforesaid order, report dated 29.11.2023 from Sub Divisional Magistrate, Mukerian has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. It is submitted that in the instant Criminal Complaint, there are two accused arraigned namely accused/petitioner no. 1 Jaswant Singh and accused/petitioner no. 2 Chanchla Devi who have appeared and got recorded their statements with respect of compromise.

2. It is submitted that none of accused is absconding or has been declared as proclaimed persons/PO in this case.

3. It is submitted that in the instant criminal case, there is only complainant/injured/aggrieved person namely complainant/respondent no. 2 Santosh Kumari who has got recorded her statement in the court with respect of compromise.

4. It is submitted that instant case is at the stage of pre-charge evidence of complainant.

5. In view of the statements recorded of the parties, the undersigned is of the view that compromise between the accused/petitioners no.1 & 2 and complainant/respondent no. 2 is genuine, voluntarily and without any coercion or pressure.

6. It is submitted that ASI Harjit Singh, Belt No. 1544/HPR Naib Court of this court has recorded his statement to the effect that he has received an intimation from MHC Jatinder Singh of

P.S. Talwara, it is reported that no criminal case is pending against both of the accused/petitioners no.1 and 2 nor they have declared as proclaimed person/proclaimed offender in any other criminal case (Original of Intimation is attached).

The report is hereby submitted for kind consideration and further necessary action, please.”

4. Learned counsel for respondent No. 2 admits the fact of parties having compromised and states that he has no objection in case the Complaint Case and all proceedings subsequent thereto including the summoning order dated 28.08.2023 passed by the Court of learned SDJM, Mukerian (Anexure P-2) against the petitioners is quashed.

5. Similarly, learned State counsel has stated no objection in case the Complaint Case including the summoning order dated 28.08.2023 passed by the Court of learned SDJM, Mukerian (Anexure P-2) is quashed based upon the compromise (Annexure P-4).

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 complaint case 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. Complaint Case No. COMI No. 66/2017 dated 03.11.2017 under Sections 452,380,323,427,354,504,506,34 of IPC and all consequent proceedings arising therefrom including the summoning order dated 28.08.2023 passed by the Court of learned SDJM, Mukerian (Anexure P-2) on the basis of compromise deed dated 20.09.2023 (Annexure P-4), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

02.02.2024
P.Singh

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