

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

261

CRM-M-49857-2023

Date of decision: 16.02.2024

Pankaj Sood

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Kamalpreet Kaur, Advocate for
Mr. Sandeep Arora, Advocate for the petitioner.
Mr. Yuvraj Singh, AAG Punjab.
Mr. G.S. Rawat, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.89 dated 07.11.2015 under Sections 498-A, 506 & 120-B of IPC, registered at Police Station, Women Cell, Amritsar City (Annexure P-1) as also quashing of judgment dated 02.02.2019 (Annexure P-2) passed by JMIC, Amritsar, and all consequent proceedings arising therefrom on the basis of compromise, which is stated to have been effected between the parties.

2 On 04.10.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.89 dated 07.11.2015 under Sections 498A, 506, 120B of the Indian Penal Code, 1860 registered at Police Station Women Cell, Amritsar City, along with all subsequent proceedings, on the basis of a compromise arrived at between the parties.

Learned counsel for the petitioner would contend that the parties have entered into a compromise before the Lok Adalat, Amritsar where their statements were recorded on 09.09.2023 (Annexures P-3 and P- 4). The learned counsel would further contend that the parties have agreed to

*amicably resolve their disputes and have also filed a petition under Section 13-B of the Hindu Marriage Act, 1955. Learned counsel for the petitioner has relied upon the judgment by the Hon'ble Supreme Court rendered in "**Gian Singh V/s State of Punjab & Anr.**" [2012 (10) SCC 303] and the Larger Bench's judgment of this Court in "**Kulwinder Singh & Ors. Vs. State of Punjab & Anr.**" [2007 (3) RCR (Criminal) 1052] to contend that this Court has wide powers under Section 482 CrPC to quash the proceedings in cases where the parties have entered into a compromise voluntarily and willingly to prevent abuse of law and to secure the ends of justice.*

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. G.S. Rawat, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that respondent No.2 has voluntarily entered into a compromise with the petitioner and that respondent No 2 has no objection if the aforesaid FIR is quashed.

List on 11.01.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 20.11.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing.

- 1) Whether the settlement/compromise has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties."*

3. Pursuant to the aforesaid order, report dated 04.01.2024 from Civil Judge (Jr. Divn.)-cum-Judicial Magistrate First Class, Amritsar has

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

“2. As per statement of respondent/victim Archana Sood compromise has been effected between the parties with their full consent and without any pressure upon them, out of their own volition. She also submitted that she has no objection if the present FIR against the accused be quashed. She also stated that no person has been declared as proclaimed person/offender in present FIR. She also stated that she is not party to any other criminal case and no person has been declared proclaimed offender in any criminal case. She also placed before court copy of her Aadhar Card and copy of the same is Mark-P1.

3. Statement of accused Pankaj Sood was also recorded in which he stated that with the intervention of the respectables the matter has been compromised between them in an amicable way and they have decided to bury their hatchets and ill feelings once and for all and live a life of peace and harmony in the future. He also stated that he has entered into compromise with the complainant/victim out of his free will and without any sort of fraud, misrepresentation, threat, coercion or duress and the same is genuine. He also stated that he is not party to any other criminal case and he has not been declared proclaimed offender in any criminal case. Accused Pankaj Sood has placed on record copy of his Aadhar Card and copy of the same is Mark- P2.

4. Statement of investigating officer ASI Gurbhajan Singh No. 1149/ASR, posted at PS Women, Amritsar, has also been recorded.

5. The report as per orders is submitted:-

1 Whether the settlement/compromise has been freely entered into between the parties without any undue influence, coercion or pressure of any kind?

Ans. From the statements of parties, the compromise between these two parties appears to be genuine, out of their free will, voluntary and without any coercion and undue influence.

2. Whether any other criminal cases are pending against the parties?

Ans. As per statement of IO and parties, the parties are not involved in any other criminal case.

3. Whether any proclamation proceedings are pending against either of the parties?

Ans. As per statement of IO and the parties, no proclamation proceedings are pending against any of the parties.

It is pertinent to mention that IO has disclosed that there is one complainant Archana Sood and four accused namely Pankaj Sood, Puneet Sood, Shikha Sood and Kapil Sareen. The challan against all four accused was

presented on 8/06/2017 and accused Puneet Sood, Shikha Sood and Kapil Sareen were acquitted by Sh. Davinder Singh, Ld. JMIC, Amritsar on 2/02/2019. However, accused Pankaj Sood was acquitted for offence under Section 506 IPC but convicted for offence under Section 498-A IPC on 2/02/2019 by the same Ld. Court. As per the copy of petition before this Court, the petition before Hon'ble High Court has been filed by only accused Pankaj Sood.

6. *Kindly find enclosed herewith statements of all the parties, with copies of their identity card and statement of Investigating Officer ASI Gurbhajan Singh No. 1149/ASR, posted at PS Women, Amritsar.*

7. *The report with regard to compromise on the basis of statements of the parties along-with statements of the parties, as directed by the Hon'ble High Court, is accordingly being submitted for perusal by His Lordship please.*

Thanking you."

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.

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 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.89 dated 07.11.2015 under Sections 498-A, 506 & 120-B of IPC, registered at Police Station, Women Cell, Amritsar City (Annexure P-1) as also judgment dated 02.02.2019 (Annexure P-2) passed by JMIC, Amritsar is set-aside and all consequent proceedings arising therefrom on the basis of compromise/affidavit, are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 16, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No