



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

301-3

CRM-M-47562-2024
Date of decision: 06.11.2024

NISHU MITTAL

....PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vipul Sachdeva, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate for respondent No.2.

SUMEET GOEL, J.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.68 dated 04.05.2018 under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC, registered at Police Station SBS Nagar, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 04.09.2024 (Annexure P-4), which is stated to have been effected between the parties.

2 On 23.09.2024, the following order was passed:

“Prayer in the present petition under Section 528 of BNSS, 2023 is for quashing of FIR No.68 dated 04.05.2018 registered under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC at Police Station SBS Bagar, District Ludhiana, on the basis of compromise (Annexure P-4).

Notice of motion.

At this stage, Mr. S.K. Garg Narwana, Senior Advocate with Mr. Vishal Garg Narwana, Advocate, accepts notice on behalf of the complainant/respondents No.2. He has admitted the correctness of compromise and stated that he has no objection if this petition is allowed.



On the asking of this Court, Mr. J.S. Dhaliwal, AAG, Punjab accepts notice on behalf of the State. He does not wish to file any reply as the parties are stated to have effected the compromise.

So, the parties are directed to appear before the learned trial court/Illaq Magistrate on 14.10.2024 or any other date convenient to the trial Court/Illaq Magistrate and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with his report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

To be listed along with CRM-M-47536-2024 on 04.11.2024 for awaiting the report.

A copy of this order be sent to the learned trial Court/Illaq Magistrate, through electronic mode, for compliance.”

3. Pursuant to the aforesaid order, report dated 28.10.2024 from Judicial Magistrate, Ist Class, Ludhiana, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. It is respectfully submitted that there are total two accused in the present FIR namely Nishu Mittal and Karan Gupta.
2. It is further respectfully submitted that no accused has been declared proclaimed offender/person.
3. It is further respectfully submitted that challan has already been presented and earlier accused did not appear and after appearance of accused, vide order dated 16.08.2021 passed by the Hon'ble High Court, the trial court was directed to adjourn the case beyond the date fixed by the Hon'ble High Court.
4 It is further respectfully submitted that in view of statements given by the parties, this Court is of the considered opinion that compromise effected between parties i.e. Sanjeev Mittal and Nishu Mittal without any coercion or undue influence.”

4. Learned counsel for respondent No.2 admits the factum 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 that he has no objection in case the FIR 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 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.68 dated 04.05.2018 under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC, registered at Police Station SBS Nagar, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 04.09.2024 (Annexure P-4), are, hereby, quashed qua the petitioner.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 06, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No