

CRM-M-50551-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

283

CRM-M-50551-2023

Date of decision: 20.02.2024

Sunil Kumar

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. Yuvraj Singh, AAG Punjab.

Ms. Rashika Bansal, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.269 dated 28.12.2021 under Sections 498-A and 406 of IPC, registered at Police Station, Civil Lines, Batala District Batala, and all consequent proceedings arising therefrom on the basis of compromise dated 26.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 06.10.2023, the following order was passed:

“The petitioner herein seeks the quashing of the FIR bearing No.269 dated 28.12.2021 registered at Police Station Civil Lines Batala, all District Batala, under Sections 498A and 406 IPC, along-with all the consequential proceedings arising therefrom, while averring that the parties have arrived at an amicable settlement/compromise in respect of their dispute in the present case.

Learned counsel for the petitioner, inter-alia, contends that the subject FIR had been got registered due to the dispute arisen out of some misunderstanding between the petitioner-husband and respondent No.2-complainant/wife but now, with the intervention of the respectables, the same

stands settled/resolved amicably and the said compromise/settlement 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 instant petition having been sent to the respondent-State in advance, accepts the notice.

At this stage, Ms. Rashika Bansal, Advocate, has also put in appearance on behalf of respondent No.2-complainant in this petition and has submitted her Power of Attorney in the Court today and the same is taken on the record. She accepts the notice on behalf of the said respondent 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 02.11.2023 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 20.02.2024 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR 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.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

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

CRM-M-50551-2023

3

3. Pursuant to the aforesaid order, report dated 14.11.2023 from Judicial Magistrate, Ist Class, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Please find enclosed herewith statements so suffered by respondent no.2 Sapna and accused-petitioner Simii Kumar with regard to compromise having been effected between them in the present case voluntarily and without any coercion or pressure. Statement of investigating officer ASI Sukhraj no. 3319/Btl also recorded regarding number of victim/complainant/aggrieved persons in the FIR.

So far as report sought, same is as follows:-

1 As per statement of investigating officer ASI Sukhraj no. 3319/Btl, only one person: namely Sunil Kumar has been arrayed as accused in the FIR He appeared and made statement qua the compromise.

2. Neither accused Sunil Kumar is absconding nor he has been declared proclaimed offender/person in this case.

3. The name of complainant is Sapna and as per statement of investigating officer ASI Sukhraj no 3319/Bti, she IS only victim/complainant/aggrieved in the FIR. She has made statement in support of the compromise.

4. Case is at the stage of framing the charges.

5. After going through the statements of the parties, this Court is satisfied that respondent no.2 Sapna has effected the compromise with the above named accused with her own free will and without any coercion or pressure from any corner and same is found genuine.

6. As per statement of investigating officer ASI Sukhraj no. 3319/Btl, no other criminal case is pending against the accused.

Accordingly, report is being submitted to your good-self for further proceedings.

Submitted 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 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).

CRM-M-50551-2023

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 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.269 dated 28.12.2021 under Sections 498-A and 406 of IPC, registered at Police Station, Civil Lines, Batala District Batala and all consequent proceedings arising therefrom on the basis of compromise dated 26.09.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 20, 2024
Ajay

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