

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
204

CRM-M-45792-2019
Date of decision: 13.03.2024

MUNISH KUMAR

...PETITIONER

V/s

STATE OF PUNJAB AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajesh Kapila, Advocate for
Ms. Himani Kapila, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Ms. Kamalpreet Kaur, Advocate for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.78 dated 04.07.2015 under Sections 406, 498-A of IPC, registered at Police Station, Dhariwal, District Gurdaspur and all consequential proceedings arising therefrom on the basis of compromise dated 16.10.2019 (Annexure P-3), which is stated to have been effected between the parties.

2 On 05.02.2024, the following order was passed:

*“The petitioner has approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties. The parties are directed to get their statements recorded qua the factum of compromise in the following manner:
(i) The petitioner shall appear before the ASJ, Gurdaspur/Appellate Court concerned on 09.02.2024 or any date thereafter as fixed by ASJ, Gurdaspur/Appellate Court for recording statements of the petitioner as well as of the complainant qua the factum of compromise. As*

and when any such appearance is made, the ASJ, Gurdaspur/Appellate Court shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the ASJ, Gurdaspur/Appellate Court to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the ASJ, Gurdaspur/Appellate Court.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The ASJ, Gurdaspur/Appellate Court may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of ASJ, Gurdaspur/Appellate Court.

After recording the statements of all the affected parties in either of the aforesaid manner, the ASJ, Gurdaspur/Appellate Court shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The ASJ, Gurdaspur/Appellate Court shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioner, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 13.03.2024.”

3. Pursuant to the aforesaid order, report dated 27.02.2024 from Additional Sessions Judge, Gurdaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Kindly refer to Hon'ble High Court of Punjab and Haryana order dated 05.02.2024, passed in CRM-M-45792-2019, conveyed to the undersigned vide Endst. No. 56/RKT dated 08.02.2024 of the Learned District & Sessions Judge, Gurdaspur on the subject cited above. I have the honour to submit that vide order dated 05.02.2024 passed in CRM-M-45792-2019 by Hon'ble High Court, parties were directed to appear before ASJ, Gurdaspur/Appellate Court concerned on 09.02.2024 or any date thereafter as fixed by ASJ, Gurdaspur/Appellate Court for recording their statements and after recording their statements of all the affected parties, the ASJ/Appellate Court was directed to submit its report with regard to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion. In compliance of said order, Ms. Sunita (respondent) daughter of Rajinder Singh resident of village Chhotepur. Police Station Dhariwal, Tehsil and District Gurdaspur has appeared and got recorded her statement to the effect that the matter has been compromised between her and appellant/petitioner Munish Kumar son of Kamaljeet Ohri resident of resident of House no. 3609, Parvati Colony NIC, Faridabad (Haryana) with the intervention of respectables of the society. In the present case, only one person i.e. appellant was arrayed as accused and there is no any other accused was arrayed and none of the accused has been declared proclaimed offender in this case and there is no any other complainant or affected/aggrieved party other than her. The said compromise is genuine, voluntary and is without any coercion or undue influence. She has no objection that if present case may be quashed on the basis of compromise effected between them. In the statement of appellant/petitioner Munish Kumar also stated that the matter has been compromised between him and the respondent Sunita. It is humbly submitted that the statements of the parties i.e. petitioner Munish Kumar (appellant) and respondent Sunita (complainant) in above said case appear to be voluntarily, valid and free from coercion or influence of any kind. It is further submitted that points wise report is being sent to your honour as under:-

i. That there is no any other accused other than the petitioner, arrayed in the present FIR

ii. That there is no any other complainant or effected/aggrieved party other than the respondent Sunita, arrayed in the present FIR.”

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-3).

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.*

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.78 dated 04.07.2015 under Sections 406, 498-A of IPC, registered at Police Station, Dhariwal, District Gurdaspur and all consequential proceedings arising

therefrom on the basis of compromise dated 16.10.2019 (Annexure P-3), are,
hereby, quashed qua the petitioner.

10. Impugned judgment dated 25.07.2019 passed by JMIC
Gurdaspur is also quashed.

(SUMEET GOEL)
JUDGE

March 13, 2024
jatin

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