

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

CRM-M-52271 of 2023

DATE OF DECISION :- 19.01.2024

Sandeep Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Parvinder Mor, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Vikas Singh Chawra. Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 0029 dated 14.02.2019 under Sections 323,406,498-A and 506 IPC, registered at Police Station, Saha, District Ambala and all consequent proceedings arising therefrom on the basis of compromises dated 27.09.2023 and 10.10.2023 (Annexure P-2 and P-3), which are stated to have been effected between the parties.

2. On 16.10.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0029 dated 14.02.2019 under Sections 323, 406, 498-A and 506 of the Indian Penal Code, 1860 registered at Police Station Saha, District Ambala, along with all subsequent proceedings arising

therefrom, on the basis of a compromise dated 27.09.2023 and 10.10.2023 (Annexures P-2 and P-3) arrived at between the parties.

Learned counsel for the petitioners would contend that the FIR was a result of a matrimonial discord and that the petitioners and the complainant-respondent No.2 have since resolved all their disputes and entered into a compromise dated 27.09.2023 and 10.10.2023 (Annexures P-2 and P-3). Learned counsel would further contend that the parties have since parted ways. Learned counsel for the petitioners 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].

Notice of motion.

On the asking of the Court, Ms. Mahima Yashpal DAG Haryana accepts notice on behalf of respondent No.1-State. Mr. Vikas Singh Chawra, Advocate accepts notice for complainant-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 the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. He further submits that the said compromise has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 19.01.2024.

Meanwhile, the parties are directed to appear before the concerned Chief Judicial Magistrate/Illaq Magistrate/trial Court on 06.11.2023, 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 dated 27.09.2023 and 10.10.2023 (Annexures P-2 and P-3) 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 09.11.2023 from Judicial Magistrate Ist Class, Ambala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. Statement of complainant Ms. Rosy Rani, accused Sandeep Kumar, Ishwar Singh, Ram Murti and Investigating officer HC Sandeep Kumar (Annexure 1) has been recorded on solemn affirmation in which they stated that they have compromised the matter with each other voluntarily and without any fear or pressure.

2. After careful perusal of the statement given on solemn affirmation by the complainant as well as accused concerning the present case and after careful analysis of the same, this court is convinced that the compromise between the parties in question is genuine and no such material is available on record which can reflect that the compromise has been effected under fear, threat, pressure or coercion. Therefore, this court is of the thoughtful opinion that the available material on record is in favour to reflect a valid compromise between the parties.

3. *As per statement of Investigating officer, only three accused arrayed in this case and no one was declared as proclaimed offender/absconding. Except Ms. Rosy Rani, there is no other complainant. Case is fixed for prosecution evidence. Accused have not been involved in any other case and they have filed their affidavits in this regard.*

4. *All accused and complainant/victims are party to compromise.*

Therefore, the above mentioned facts and circumstances, as part of report are detailed for your honour's kind information, please.

Submitted please”

4. Learned counsel for respondents 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 petitioners is quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise Annexure P-2 and 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 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 wide 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. 0029 dated 14.02.2019 under Sections 323,406,498-B and 506 IPC, registered at Police Station, Saha, District Ambala and all consequent proceedings arising therefrom on the basis of compromise dated 27.09.2023 and 10.10.2023 (Annexure P-2 and P-3), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

19.01.2024
P.Singh

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