

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
325

CRM-M-54886-2022
Date of decision: 19.03.2024

PARVEEN KUMAR AND ORS

...PETITIONERS

V/s

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anirudh Singh Shera, Advocate
for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. A.S. Sandhu, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.162 dated 26.12.2018 under Sections 323, 34, 406, 498-A, 506, 509 of IPC, registered at Police Station, Women West Gurugram, District Gurugram and all consequential proceedings arising therefrom on the basis of compromise (Annexure P-2), which is stated to have been effected between the parties.

2. On 24.11.2022, the following order was passed:

*“The petitioners have filed the present petition seeking quashing of FIR No.162 dated 26.12.2018 under Sections 323, 34, 406, 498-A, 506, 509 I.P.C., registered at Police Station, Women West Gurugram, District Gurugram and subsequent proceedings arising therefrom, on the basis of the compromise (Annexures P-2).
Learned counsel for the petitioners submits that parties have amicably settled their dispute and they have arrived at a compromise. Counsel submits that prosecution of the petitioners in the present FIR is nothing but an abuse of the process of law.*

Notice of motion.

On the asking of the Court, Mr. B.S. Virk, D.A.G., Haryana accepts notice on behalf of respondent No.1 and Mr. A.S. Sandhu, Advocate accepts notice on behalf of respondent no.2.

Learned counsel for respondent no.2 has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties.

Adjourned to 16.3.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 16.12.2022 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court."

3. Pursuant to the aforesaid order, report dated 20.12.2022 from Judicial Magistrate Ist Class, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"In respect of the informations as sought by the Hon'ble High Court, it is humbly submitted that in pursuance of orders of the Hon'ble High Court all the parties have appeared before the Court on 16.12.2022. Complainant Deepika appeared, who is duly identified by 1.0.. suffered a statement to the effect that she is complainant in the present case and compromise has been effected between the parties with the intervention of respectable person and she has entered into compromise voluntarily, without any undue influence or coercion. She has no grievance against all the accused persons in the present case. Accused namely Parveen Kumar, Dalbir Singh and Saroj appeared in the court have also suffered separate statements to the effect that they are the accused in the present case 16-12-2322 FIR No. bearing 162 26.12.2018 under Sections 323, 406, 498-A, 506, 509 of IPC read with Section 34 of IPC Police Station Women West, Gurugram. The compromise has been effected between the parties with the intervention of respectable person and they have entered into compromise voluntarily, without any undue influence or coercion. They have not involved in any other criminal case and have not been declared proclaimed offenders. It is further submitted that L/HC Karuna, Belt No. 160, P.S. Women West, Gurugram has suffered a statement to the effect that he is Investigating Officer of the case bearing FIR No. 162 dated 26.12.2018 under Sections 323, 406, 498-A, 506, 509 of IPC read with Section 34 of IPC Police Station Women West, Gurugram. It is further stated that there is one complainant namely Deepika. It is further stated that there are three accused namely Parveen Kumar, Dalbir Singh and Saroj. There is no other accused in the present case. It is further stated that parties to this case are not involved in any other criminal case and have not been declared as proclaimed offenders in the present case. It is further submitted that on being satisfied that the statements were being voluntarily made, statements of the parties were recorded on oath,

wherein they have acknowledged of having entered into compromise voluntarily, without any undue influence or coercion. In the considered view of this court, compromise has been effected between the parties with their free will. Compromise is voluntarily, without any undue influence and coercion.”

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 petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

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.162 dated 26.12.2018 under Sections 323, 34, 406, 498-A, 506, 509 of IPC, registered at Police Station, Women West Gurugram, District Gurugram and all consequential proceedings arising therefrom on the basis of compromise (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

March 19, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No