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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52371-2023 (O&M)
Date of Decision: 31.01.2024

SUNIL KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Dinesh Kumar, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Abhishek Chha, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.88 dated 24.07.2023 under Sections 363 and 366-A of the Indian Penal Code, 1860 registered at Police Station Phase-8, District SAS Nagar (Mohali) and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 23.08.2023 (Annexure P-2), which is 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.88 dated 24.07.2023 under Sections 363, 366-A of the Indian Penal Code, 1860 registered at Police Station Phase-8, District SAS Nagar (Mohali), along with all the consequential proceedings arising therefrom, on the basis of a compromise dated 23.08.2023 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioner would contend that the petitioner and complainant-respondent No.2 have since resolved all their disputes and entered into a compromise dated 23.08.2023 (Annexure P-2). Learned counsel for the petitioner 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, Mr. Adhiraj Singh Thind, AAG Punjab, accepts notice on behalf of respondent No.1-State. Mr. Abhishek Chha, 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 22.01.2024.

Meanwhile, the parties are directed to appear before the concerned Chief Judicial Magistrate/Illaq Magistrate/trial Court on 30.11.2023, 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 23.08.2023 (Annexure P-2) 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 21.12.2023 from Principal Magistrate Juvenile Justice Board-cum-JMIC, SAS Nagar, Mohali has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

The report is submitted as under:-

"(1) Yes the settlement/compromise 23.08.2023 appears to be freely entered into between the parties without any undue influence, coercion or pressure of any kind.

(2) As per the report of the IO, no other criminal cases

are pending against the parties.

(3) As per the report of the IO, no proclamation proceedings are pending against either of the parties.”

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 is 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 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. Learned counsel for the parties, in support of their contentions have relied upon the following judgments :-

i) Ranjeet Kumar versus State of H.P. & Ors. in case Cr.MMO No. 648 of 2023 decided on 08.12.2023 by the High Court of Himachal Pradesh, Shimla.

ii) Arif Khan versus The State and another in case W.P. (CRL) 1064/2023 decided on 09.01.2024 by the High Court of Delhi at New Delhi.

Iii) Sukhchain Singh and others versus State of Punjab and others 2021(4) R.C.R. (Criminal) 81.

iv) Ananda DV Vs. State and another 2021 SCC Online SC 3423.

9. 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) As per the report received the compromise is said to be voluntary in its nature.

(iv) Complainant/victim is reported to have entered into compromise on his own volition.

10. Consequently, the petition is allowed. FIR No.88 dated 24.07.2023 under Sections 363, 366-A of the Indian Penal Code, 1860 registered at Police Station Phase-8, District SAS Nagar (Mohali) and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 23.08.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

31.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No