

129

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26112-2017 (O&M)
Date of Decision: 30.01.2024

SUSHMA BHATIA AND ANR

.. Petitioners

Vs.

UT OF CHANDIGARH & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Sharma, Advocate for the petitioners.
Mr. Rajiv Vij, Addl. P.P., U.T. Chandigarh.
Mr. Kripal Singh, Advocate for respondent No.2.
...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.46 dated 23.05.2016 under Sections 406 and 498-A of IPC, registered at Police Station Women, Distirct Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 25.05.2016, Ex. CA, which is stated to have been effected between the parties.
- 2 On 21.07.2023, the following order was passed:

“The present petition has been filed for quashing of FIR No.46 dated 23.05.2016 under Sections 406 and 498-A IPC registered at Police Station Women, District Chandigarh, on the basis of compromise entered into between the parties.
Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into compromise, according to which, both the parties have agreed not to proceed further with the FIR in question.
Adjourned to 10.01.2024.
Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise on 17.08.2023 by moving an appropriate application or by presenting this

order. As respondent No.3 is stated to be residing in Australia, her presence be secured through video conferencing before the concerned Illaqa/Duty Magistrate for recording of her statement.

The trial Court/Illaqa Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

A copy of the report be sent through fax, to the Registrar (Judicial) of this Court.”

3. Pursuant to the aforesaid order, report dated 01.09.2023 from Id. JMIC, Chandigarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“5. Thereafter, ASI Sukhdev Singh, Belt no. 2962/CP appeared and got recorded his statement that only two accused namely Sushma Bhatia and Saurabh Bhatia have been arrayed in present case FIR. There is only one complainant namely Ashok Kumar Chopra and one victim namely Aastha Chopra in the present case FIR. There is no P.O. proceedings initiated or pending against both the accused. As per their record, no other trial/proceeding is pending against aforesaid accused in Women Police Station, Sector-17, Chandigarh. Since the matter has been compromised by the complainant with the accused without any pressure, coercion or threat from any side, who has no objection with regard to quashing of FIR on the basis of compromise, therefore, compromise is complete, genuine, valid and good in the eyes of law. Therefore, report is thus submitted for your goodself's perusal.”

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 (Ex.CA).

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.46 dated 23.05.2016 under Sections 406 and 498-A of IPC, registered at Police Station Women, Distirct Chandigarh and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 25.05.2016, Ex. CA, is, hereby, quashed qua the petitioners.

30.01.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No