

2024:PHHC:025984

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

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CRM-M-56746-2022

Date of decision: 26.02.2024

Gurcharan Kaur

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sehaj Sandhawalia, Advocate, for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Rituraj Singh, Advocate for respondent Nos. 2 to 4.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 110 dated 12.04.2019 under Sections 323, 354-A, 506, 341, 120-B of IPC (Section 498-A of IPC added later on), registered at Police Station, Model Town, District Hoshiarpur and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 09.11.2021 (Annexure P-2), which is stated to have been effected between the parties.

2. On 22.05.2023, the following order was passed:

“The petitioner has filed the present petition seeking quashing of FIR No. 110 dated 12.04.2019 under Sections 323, 354-A, 506, 341 and 120-B of the Indian Penal Code, 1860, registered at Police Station Model Town, Hoshiarpur, (Annexure P-1), and all other subsequent proceedings arising therefrom, on the basis of the compromise dated 09.11.2021 (Annexure P-2).

Notice of motion.

On the asking of Court, Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of respondent No.1-State and Mr. Rituraj Singh, Advocate accepts notice and filed Vakalatnama on behalf of respondents No.2 to 4, which is taken on record and admit the factum of compromise effected between the parties.

Adjourned to 24.07.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 30.05.2023 or any other date, as the Court below may decide or fix, 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 (petitioner) 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 Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.

Learned counsel for the petitioner has submitted that there is a balance of Rs. 3,00,000/- which is yet to be released to the respondent-wife.

However, the petitioner is restrained from releasing an amount to the extent of Rs.30,000/- out of the compromise amount, which shall be released on the final order passed by this Court.”

3. Pursuant to aforesaid order, a demand draft of Rs.30,000/- bearing No.557331 has been handed over by the learned counsel for the petitioner to learned counsel for respondent Nos.2 to 4. A zerox copy of the same be kept on record. A report dated 10.07.2023 from Chief Judicial

Magistrate, Hoshiarpur, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. The compromise appears to be genuine, voluntary and without any coercion or undue influence. It appears to be not the result of any fraud or mis- representation, rather it appears to be result of free will of parties.

2. That in the present FIR, one person namely Gurcharan Kaur has been arrayed as accused and there is no other accused. It has been verified by the Investigating Officer of this case.

3. The parties are not declared proclaimed offender. It has also been verified by the Investigating Officer of this case. However, as per parties, they are not involved in any other criminal case.”

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-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 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.110 dated 12.04.2019 under Sections 323, 354-A, 506, 341, 120-B of IPC (Section 498-A of IPC added later on), registered at Police Station, Model Town, District Hoshiarpur and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 09.11.2021 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 26, 2024
poonam

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