

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

269

CRM-M-56166-2022

Date of Decision: 13.03.2024

Anil Besla alias Anil Bainsla

.... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pradeep Chhoker, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Amit Khari, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.70 dated 03.05.2019 under Sections 34, 376, 379-A and 506 of IPC, registered at Police Station BPTP, District Faridabad and all consequent proceedings arising therefrom on the basis of compromise dated 09.11.2022 (Annexure P-3), which is stated to have been effected between the parties.

2. On 05.12.2022, the following order was passed:

“The petitioner has filed the present petition seeking quashing of FIR No.70 dated 03.05.2019 under Sections 34, 376, 379-A, 506 IPC registered at Police Station BPTP, District Faridabad and all consequential proceedings arising therefrom on the basis of the compromise dated 09.11.2022 (Annexure P-3).

Learned counsel for the petitioner has fairly submitted that this is the second petition filed by the petitioner for quashing of the FIR on the basis of the compromise. He has submitted that the dispute has arisen out a matrimonial discord between the petitioner and the prosecutrix. He has submitted that thereafter both the parties have settled the dispute amicably with the intervention of the

respectables and petition under Section 13-B of the Hindu Marriage Act, 1955 has been filed, in which first motion statements have also been recorded and the case is now fixed for recording of second motion statements. He relies upon the judgment of Hon'ble Supreme Court in case of State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 and submits that prosecution of the petitioner is nothing but an abuse of the process of the Court.

Notice of motion.

Mr. B.S. Virk, Deputy Advocate General, Haryana accepts notice on behalf of respondent No.1 and Mr. Amit Khari, 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 petitioner and has not denied the factum of compromise effected between the parties.

Adjourned to 10.04.2023.

Let the State file status report.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 20.01.2023 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 shall 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/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 13.02.2023 from Additional Chief Judicial Magistrate, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) As per statements of the parties as referred above,

undersigned is of the view that compromise between the parties is genuine, voluntary and without any coercion or undue influence;

ii) Total number of persons arrayed as accused in the FIR were five. As per statement of IO, four persons namely Poonam, Usha, Roopwati and wife of Anil Bainsla were found innocent and now matter is pending against only one accused namely Anil Besla @ Anil Bainsla;

iii) As per statement of IO, complainant and accused are not declared as proclaimed offenders;

iv) As per statement of IO, no other criminal case is pending against accused or complainant”.

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 are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-1).

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. 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.70 dated 03.05.2019 under Sections 34, 376, 379-A and 506 of IPC, registered at Police Station BPTP, District Faridabad and all consequent proceedings arising therefrom on the basis of compromise dated 09.11.2022 (Annexure P-3), are, hereby, quashed qua the petitioner.

13.03.2024
D.Bansal

(SUMEET GOEL)
JUDGE

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