



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
232

CRM-M-52141-2024
Date of decision: 20.12.2024

MANOJ KUMAR AND ORS
V/s
STATE OF PUNJAB AND ORS
...PETITIONERS
...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhupinder Ghai, Advocate for the petitioners.
Mr. Yuvraj Singh Tiwana, AAG, Punjab.
Mr. Mohit Kakkar, Advocate for respondents No.2 and 3.

SUMEET GOEL, J.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.59 dated 11.03.2019 under Sections 323, 354-A, 451, 147 and 506 of IPC (Section 354 of IPC deleted later) (Section 354-A of IPC added later), registered at Police Station Mandi Gobindgarh District Fatehgarh Sahib, Punjab and all consequential proceedings arising therefrom on the basis of compromise dated 21.09.2024 (Annexure P-2), which is stated to have been effected between the parties.

2. On 21.10.2024, the following order was passed:

*“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.
Notice of motion.
At this stage, Mr. Adhiraj Singh, AAG, Punjab, has put in appearance on behalf of respondent No 1 State of Punjab and accepts notice.
Mr. Mohit Kakkar, Advocate has filed vakalatnama for respondents No. 2 and 3. The same be taken on record.
The parties are directed to get their statements recorded qua the factum of compromise in the following manner:
(i) The petitioners shall appear before the trial Court/Illaq Magistrate concerned on 30.10.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statement of the petitioners as well*



as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaqa Magistrate to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 26.11.2024.

The petitioners shall also deposit costs of Rs.50,000/- with The Punjab and Haryana High Court Bar Clerks Association Chandigarh (Regd. No. 2441/1995) details whereof is as under :- Bank Account No. : 65004775776

State Bank of India

IFC Code : SBIN0050306

High Court Branch, Chandigarh.

Payment of cost and production of receipt thereof before the concerned trial Court/Illaqa Magistrate shall be a condition precedent for recording of statement in the manner indicated above.”

3. Pursuant to the aforesaid order, report dated 30.11.2024 from Judicial Magistrate Ist Class, Amloh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Kindly refer to the subject cited above. In this regard, it is respectfully submitted that vide order dated 26.11.2024 passed by Hon'ble Mr Justice Sumeet Goel, Judge, Punjab & Haryana High Court, Chandigarh in CRM-M-52141-2024, parties were directed to appear before Trial Court/Illaqa Magistrate to record their statements on 28.11.2024 or any other convenient date. In this regard it is respectfully submitted that on 28.11.2024 complainant namely Harpreet Kaur D/o Manjeet Singh,



resident of House No.324, Baba Sukha Singh Colony, Kotla Road, Mandi Gobindgarh, District Fatehgarh Sahib now residing at 4876, Qakbrook dr aptd, Indianapolis, in 46254 USA appeared through Video conference.

2. Special power of attorney holder of complainant namely Sanjeev Kumar Markan son of Krishan Chand, resident of H. No.3414, Harlalpura, Ward No.8, Sirhind, Tehsil and District Fatehgarh Sahib and injured Harwinder Singh son of Manjit Singh resident of mohalla Gillanjia, Sirhind, Tehsil and District Fatehgarh Sahib and accused Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5- A, Block A, Gali No.4, Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib, accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib and accused Shiva son of Ravi Kumar, resident of Kacha Shanti Nagar, Mandi Gobindgarh, District Fatehgarh Sahib have come present and got recorded their statement.

3. Statement of complainant namely Harpreet Kaur D/o Manjeet Singh, resident of House No.324, Baba Sukha Singh Colony, Kotla Road, Mandi Gobindgarh, District Fatehgarh Sahib now residing at 4876, Qakbrook dr aptd, Indianapolis, in 46254 USA recorded through video conference in which she has stated that she has compromised the matter with accused Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5-A, Block A, Gali No.4, Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib, accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib and accused Shiva son of Ravi Kumar, resident of Kacha Shanti Nagar, Mandi Gobindgarh, District Fatehgarh Sahib with her free will/consent, without any pressure from any corner and coercion and undue influence. Accused have deposited Rs.50,000/- in the Punjab and Haryana High Court Bar Clerks Association Chandigarh as per cost imposed by Hon'ble High Court of Punjab & Haryana High Court Chandigarh. She has seen receipt of which is Ex. PA. She has seen the compromise, upon which she identifies her signature. Copy of compromise is Ex.PB, which has been duly executed between them. She also identifies her Special power of attorney Sh. Sanjeev Kumar Markan son of Krishan Chand son of Krishan Chand, resident of H. No.3414, Harlalpura, Ward No.8, Sirhind, Tehsil and District Fatehgarh Sahib who is present in the court. There are three accused namely Manoj Kumar son of Inderpal Singh, Gurmanpreet Singh son of Arjan Singh and Shiva son of Ravi Kumar in the present FIR. There is one complainant ie herself and one injured namely Harwinder Singh son of Manjit Singh. Except them, there is no other complainant or injured. No accused has been declared as Proclaimed person. She has no objection if FIR No.59 dated 11.03.2019 registered under Sections 323,354,451,147,506,354 IPC Police Station Mandi Gobindgarh alongwith subsequent proceedings be quashed against accused.

5. Special Power of attorney of complainant namely Sanjeev Kumar Markan son of Krishan Chand, resident of H. No.3414, Harlalpura, Ward No.8, Sirhind, Tehsil and District Fatehgarh Sahib has suffered statement that he is Special power of attorney of complainant Harpreet Kaur D/o Manjeet Singh, resident of House No.324, Baba Sukha Singh Colony, Kotla Road, Mandi Gobindgarh, District Fatehgarh Sahib now residing at 4876, Qakbrook dr aptd, Indianapolis, in 46254 USA. Complainant has compromised the matter with accused 4 Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5-A, Block Aero Singh, res Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib, accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib and accused Shiva son of Ravi Kumar, resident of Kacha Shanti Nagar, Mandi Gobindgarh, District Fatehgarh Sahib with her free



will/consent, without any pressure from any corner and coercion and undue influence. Accused have deposited Rs.50,000/- in the Punjab and Haryana High Court Bar Clerks Association Chandigarh as per cost imposed by Hon'ble High Court of Punjab & Haryana High Court Chandigarh. He has seen receipt of which is Ex. PA. He has seen the compromise, upon which he identifies signature of complainant. Copy of compromise is Ex.PB, which has been duly executed between complainant and accused. There are three accused namely Manoj Kumar son of Inderpal Singh, Gurmanpreet Singh son of Arjan Singh and Shiva son of Ravi Kumar in the present FIR. There is one complainant namely Harpreet Kaur D/o Manjeet Singh and one injured namely Harwinder Singh son of Manjit Singh. Except them, there is no other complainant or injured. No accused has been declared as Proclaimed person. He has no objection if FIR No.59 dated 11.03.2019 registered under Sections 323, 354, 451, 147, 506, 354 IPC Police Station Mandi Gobindgarh alongwith subsequent proceedings be quashed against accused. 4. Injured Harwinder Singh son of Manjit Singh resident of mohalla Gillanjia, Sirhind, Tehsil and District Fatehgarh Sahib has suffered statement that he has compromised the matter with accused Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5-A, Block A, Gali No.4, Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib, accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib and accused Shiva son of Ravi Kumar, resident of Kacha Shanti Nagar, Mandi Gobindgarh, District Fatehgarh Sahib with his free will/consent, without any pressure from any corner and coercion and undue influence. Accused have deposited Rs.50,000/- in the Punjab and Haryana High Court Bar Clerks Association Chandigarh as per cost imposed by Hon'ble High Court of Punjab & Haryana High Court Chandigarh. He has seen receipt of which is Ex. PA. He has seen the compromise, upon which he identifies his signature. Copy of compromise is Ex.PB, which has been duly executed between them. There are three accused namely Manoj Kumar son of Inderpal Singh, Gurmanpreet Singh son of Arjan Singh and Shiva son of Ravi Kumar in the present FIR. There is one complainant namely Harpreet Kaur d/o Manjeet Singh and one injured ie himself. Except them, there is no other complainant or injured. No accused has been declared as Proclaimed person. He has no objection if FIR No.59 dated 11.03.2019 registered under Sections 323,354,451,147,506,354 IPC Police Station Mandi Gobindgarh alongwith subsequent proceedings be quashed against accused 4. Accused Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5-A, Block A, Gali No.4, Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib suffered statement that he has compromised the matter with complainant Harpreet Kaur D/o Manjeet Singh, resident of House No.324, Baba Sukha Singh Colony, Kotla Road, Mandi Gobindgarh, District Fatehgarh Sahib now residing at 4876, Qakbrook dr aptd, Indianapolis, in 46254 USA with his free will/consent, without any pressure from any corner and coercion and undue influence. He has deposited Rs.50,000/- in the Punjab and Haryana High Court Bar Clerks Association Chandigarh as per cost imposed by Hon'ble High Court of Punjab & Haryana High Court Chandigarh. He has seen receipt of which is Ex. PA. He has seen the compromise, upon which he identifies his signature. Copy of compromise is Ex.PB, which has been duly executed between them. There are three accused ie himself, Gurmanpreet Singh son of Arjan Singh and Shiva son of Ravi Kumar in the present FIR. There is one complainant namely Harpreet Kaur D/o Manjeet Singh and one injured namely Harwinder Singh son of Manjit Singh. Except them, there is no other complainant or injured. No accused has been declared as Proclaimed person. FIR No.59 dated 11.03.2019 registered under Sections 323, 354,



451, 147, 506, 354 IPC Police Station Mandi Gobindgarh alongwith subsequent proceedings may kindly be quashed.

5. Accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib has suffered statement that he has compromised the matter with corner and coercion and undue influence. He has deposited Rs.50,000/- in the Punjab and Haryana High Court Bar Clerks Association Chandigarh as per cost imposed by Hon'ble High Court of Punjab & Haryana High Court Chandigarh. He has seen receipt of which is Ex. PA. He has seen the compromise, upon which he identifies his signature. Copy of compromise is Ex.PB, which has been duly executed between them. There are three accused ie himself, Manoj Kumar son of Inderpal Singh and Gurmanpreet Singh son of Arjan Singh in the present FIR. There is one complainant namely Harpreet Kaur D/o Manjeet Singh and one injured namely Harwinder Singh son of Manjit Singh. Except them, there is no other complainant or injured. No accused has been declared as Proclaimed person. FIR No.59 dated 11.03.2019 registered under Sections 323,354,451,147,506,354 IPC Police Station Mandi Gobindgarh alongwith subsequent proceedings may kindly be quashed.

7. IO Retired ASI Nirmal Singh son of Late Vir Singh, resident of village Mechas, Tehsil Nabha has suffered statement that he is Investigation officer of the present case. He identifies complainant namely Harpreet Kaur D/o Manjeet Singh, resident of House No.324, Baba Sukha Singh Colony, Kotla Road, Mandi Gobindgarh, District Fatehgarh Sahib now residing at 4876, Qakbrook dr aptd, Indianpolis, in 46254 USA whose statement has been recorded through video conference and Sanjeev Kumar Markan son of Krishan Chand, resident of H. No.3414, Harlalpura, Ward No.8, Sirhind, Tehsil and District Fatehgarh Sahib power of attorney holder of complainant Harpreet Kaur, injured Harwinder Singh son of Manjit Singh resident of mohalla Gillanjia, Sirhind, Tehsil and District Fatehgarh Sahib who is present in the court and accused Manoj Kumar son of Inderpal Singh, resident of House No. 04, Sector 5-A, Block A, Gali No.4, Prem Nagar, Mandi Gobindgarh, District Fatehgarh Sahib, accused Gurmanpreet Singh son of Arjan Singh, resident of village Ambemajra, at present residing at Iqbal Nagar, Mandi Gobindgarh, District Fatehgarh Sahib and accused Shiva son of Ravi Kumar, resident of Kacha Shanti Nagar, Mandi Gobindgarh, District Fatehgarh Sahib present in the court today. There are three accused namely Manoj Kumar son of Inderpal Singh, Gurmanpreet Singh son of Arjan Singh and Shiva son of Ravi Kumar in the present FIR. There is one complainant namely Harpreet Kaur D/o Manjeet Singh and one injured namely Harwinder Singh son of Manjit Singh. Except these, there is no other complainant or injured. No accused has been declared as Proclaimed person.”

4. Learned counsel for respondent Nos. 2 and 3 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 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.*

The statutory provision of Section 528 of BNSS, 2023 is same as the statutory provision of Section 482 of Cr.P.C., 1973. Therefore, the above said principles of law would apply to a petition under Section 528 of BNSS, 2023 as well.

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 CRM-M-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 528 of BNSS,2023 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.59 dated 11.03.2019 under Sections 323, 354-A, 451, 147 and 506 of IPC (Section 354 of IPC deleted later) (Section 354-A of IPC added later), registered at Police Station Mandi Gobindgarh District Fatehgarh Sahib, Punjab and all consequential proceedings arising therefrom on the basis of compromise dated 21.09.2024 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

December 20, 2024
jatin

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