

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

220

CRM-M-54950-2023 (O&M)
Date of decision: 19.04.2024

BALJIT KAUR AND OTHERS

....PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Malhotra, Advocate
for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Ms. Gurpreet Kaur, Advocate
for LR’s of respondent No.2 (since deceased).

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.155 dated 11.11.2022 under Section 498-A of IPC, registered at Police Station Dugri, District Police Commissionerate and all consequential proceedings arising therefrom on the basis of compromise dated 13.09.2023 (Annexure P-2), which is stated to have been effected between the parties.
2. On 18.01.2024, the following order was passed:

CM-1819-2024
This is an application under Section 482 Cr.P.C. for placing on record amended Memo of Parties and copies of affidavits of Harpreet Kaur and other L.Rs of deceased Jaspreet Kaur as Annexure P-3.
For the reasons mentioned in the application, application is allowed.
Amended Memo of Parties is taken on record along with affidavits of L.Rs of the deceased,Jaspreet Kaur.
Registry is directed to tag the same at an appropriate place.

CRM-M-54950-2023
The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.155

dated 11.11.2022 under Section 498A, of the Indian Penal Code, 1860 registered at Police Station Commissionerate Ludhiana, and all other consequential proceedings arising there-from on the ground that the parties have since compromised the matter vide compromise deed dated 13.09.2023 (Annexure P-2).

Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise deed dated 13.09.2023 has been appended with the present petition as Annexure P-2.

Notice of motion.

On the asking of the Court, Ms. Kanica Sachdeva, AAG., Punjab. waives service on behalf of respondent No.1-State. Mr. Ashish Bakshi, Advocate accepts notice on behalf of L.Rs of respondent No.2 No. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for L.Rs of respondent No.2 has stated that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P-2 with the petition. He further states that the L.Rs of respondent No.2 have no objection if the aforesaid FIR is quashed. List on 19.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 12.02.2024, 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 a 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 dated 13.09.2023 (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 28.02.2024 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“1. Compromise has been effected without any coercion, pressure and undue influence
2. As per the report of ASI Dilbag Singh, no other FIR is registered against the accused persons.
3. Proclamation proceedings are not pending against accused of this case.”*

4. Learned counsel for LR's of respondent No.2 (since deceased) 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 (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.*

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.155 dated 11.11.2022 under Section 498-A of IPC, registered at Police Station Dugri, District Police Commissionerate and all consequential proceedings arising therefrom on the basis of compromise dated 13.09.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.
10.

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

(SUMEET GOEL)

JUDGE

April 19, 2024

jatin

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