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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60071-2022 (O&M)
Date of Decision: 04.03.2024

AMANDEEP SINGH SANDHU AND OTHERS

.. Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhinav Jain, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Arnav Kumar, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR bearing No.57 dated 17.06.2022, registered under Sections 376/420/406/465/467/471/120-B IPC, at Police Station Sadar, District Moga and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 25.11.2022 (Annexure-2), which is stated to have been effected between the parties.
2. On 24.03.2023, the following order was passed:

“Keeping in view the fact that a compromise has been entered into between the parties, they are directed to appear before the trial Court/Duty Magistrate on 26.04.2023 or any other date convenient to the Court, for recording their statements with regard to compromise. The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties: The trial Court/Duty Magistrate shall also furnish the following information:

1. Whether there is any other accused, apart from the petitioners arrayed in this petition.

2. *Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.*

3. *Whether the parties are involved in any other criminal case.*

4. *Whether any of the parties has been declared a proclaimed offender.*

The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e., 09.08.2023.”

3. Thereafter, on 07.02.2024, the following order was passed:

“Learned counsel for the petitioners submits that, due to unavoidable circumstances, the requisite statements of petitioner No.1-Amandeep Singh Sandhu could not be recorded before the concerned Court.

Learned counsel appearing for respondent No.2-complainant ratifies the same.

In view of above, the concerned Court is now directed to record the statement of petitioner No.1-Amandeep Singh Sandhu in terms of order dated 24.03.2023 passed by this Court.

Petitioner No.1-Amandeep Singh Sandhu is directed to get his statement recorded qua the factum of compromise in the following manner:

(i) The petitioner No.1 shall appear before the trial Court/Illaq Magistrate concerned on 13.02.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statement of the petitioner No.1 as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaq 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/Illaq Magistrate to either record the statement of petitioner No.1 by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the petitioner No.1 concerned shall be duly identified through video conferencing by his respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaq Magistrate may also choose to get the statement of petitioner No.1 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 statement to the effect that the parties had appeared before him/her and he/she had recorded his statement as per law and that the said

petitioner No.1 had been duly identified by his respective counsel. This shall be subject to satisfaction of trial Court/Illaq Magistrate.

The report be submitted before this Court before the next date of hearing i.e. 28.02.2024.”

4. Pursuant to the aforesaid order, report dated 27.02.2024 from ld. Addl. District & Sessions Judge, Fast Track Special Court, Moga has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“5. In terms of the order dated 24.03.2023 passed by Hon'ble High Court, it is submitted as under :-

- 1. There is no other accused, apart from the petitioners arrayed in this petition.*
- 2. There is no other complainant or affected/aggrieved party, apart from the respondent No.2 in the petition.*
- 3. As per the statements of the petitioner, the parties are not involved in any other criminal case.*
- 4. No party has been declared as proclaimed offender.*

6. In view of order dated 07.02.2024 passed by Hon'ble High Court, it is submitted that prosecutrix had entered into compromise qua present FIR with petitioner Amandeep Singh Sandhu without any inducement, threat, pressure or coercion and out of her free will and volition and have categorically stated that they have no objection in case FIR is quashed. The accused has also supported the compromise.”

5. 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.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

7. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

8. 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.*

9. 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.

10. 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.*

11. Consequently, the petition is allowed. FIR bearing No.57 dated 17.06.2022, registered under Sections 376/420/406/465/467/471/120-B IPC, at Police Station Sadar, District Moga. and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 25.11.2022 (Annexure-2), are, hereby, quashed qua the petitioners.

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

04.03.2024

Jasmine Kaur

Whether speaking/reasoned
Whether reportable

(SUMEET GOEL)

JUDGE

Yes No
Yes No