

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58931-2022 (O&M)
Reserved on: 15.05.2024
Pronounced on: 27.05.2024

Harpreet Singh
... Petitioner(s)
Versus
State of Punjab and another
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. D.R. Punia, Advocate
for the petitioners.
Mr. M.S. Bajwa, DAG, Punjab.
Mr. Amit Thakur, Advocate for
Mr. Sunil Kumar Pandey, Advocate
for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
53	25.9.2022	Dhilwan, District Kapurthala	279, 337, 338, 427 IPC

The petitioner, arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on the compromise with the complainant.

2. During the pendency of the criminal proceedings, the accused and the complainant have compromised the matter, and its copy is annexed with this petition as Annexure P-2.

3. After that, the petitioner came up before this Court to quash the FIR, impleading the complainant as respondent No.2.

4. Pursuant to orders of this Court dated 16.12.2022 the petitioner(s) and complainant (R-2) appeared before the Judicial Magistrate Ist Class, Kapurthala and stated that there would be no objection if the Court quashes this FIR and consequent

proceedings. As per the concerned court's report dated 10.3.2023, the parties consented to the quashing of FIR and consequent proceedings without any threat. However, on 7.2.2024, this Court found that statement of wife of the complainant namely Lakhwinder Kaur, who had been injured, had not been recorded and therefore, further direction was issued to get her statement. Pursuant thereto, report of the concerned Magistrate dated 20.3.2024 has been received. It will be relevant to extract the relevant part of the said report of the concerned Court, which reads as under:-

"Injured Lakhwinder Kaur appeared before me and she is not able to speak. She is not in a fit mental condition and she is not able to understand anything. In order to check her mental state, I proceed further to put certain question to her.

1. Question :- What is your name?

Answer :- She waved her hand and nodded her head that she does not know anything.

2. Question: What are you doing today?

Answer:- She waved her hand and nodded her head that she does not know anything.

3.Question :- Whether she identify the accused?

Answer:- She waved her hand and nodded her head that she does not know anything.

4.Question :- Do you identify your husband Major Singh?

Answer:- She waved her hand and nodded her head that she does not know anything.

At this stage, I am of the opinion that injured Lakhwinder Kaur is not in such a mental condition that she can give answer to the questions put to her. Even her family members i.e. her husband Major Singh and daughter Rajwinder Kaur disclosed that she is not fit after the accident occurred in the aforesaid FIR. She is not able to speak, understand anything and she is even not able to walk properly.

She is on medication from last 1½ years approximately.

(Note:- Read over to her family members and after that injured Lakhwinder Kaur put her thumb impression in presence of her family members i.e. her husband and daughter)"

In view of facts mentioned above, after recording the statement of injured Lakhwinder Kaur in presence of her family member i.e. her husband Major Singh and daughter Rajwinder Kaur, the same was thumbmarked by Lakhwinder Kaur and signed by her family members i.e. her husband Major Singh and daughter Rajwinder Kaur. Thereafter, the injured was identified by IO ASI Sarabjit Singh. In view of statement of injured Lakhwinder Kaur, I submit that no satisfaction can be given whether injured has compromised the matter with accused (petitioner before the Hon'ble High Court) or not."

5. The real victim in the case was the wife of the complainant and her voluntary statement to quash the FIR captioned above was the primary requirement and her husband is not authorized to make a statement on her behalf. A perusal of the report dated 20.3.2024 of the concerned Magistrate, reproduced above, clearly points out that she was not in proper state of mind to understand the impact and consequences of the compromise and then thumb mark her statement. Further, the concerned Magistrate has also not given her satisfaction in the matter. Thus, the matter cannot be

compromised at this stage. Liberty reserved.

Accordingly, the present petition dismissed. However, liberty is reserved to file a fresh petition after complying with provisions of law for making statement on behalf of his wife or as and when the injured/victim is in fit state of mind to make a statement *qua* the compromise in question. All pending applications, if any stand closed.

(ANOOP CHITKARA)
JUDGE

May 27, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No