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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59250-2022 (O&M)
Date of Decision: 29.02.2024

DEVESH SINGH BHADORIYA @ DEVESH BHADAURIA

.. Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munish Behl, Advocate for the petitioner.
Ms. Ankita Ahuja, AAG, Haryana.
Mr. Manvendra Singh Bishnoi, Advocate for respondent No2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No. 664 dated 09.11.2017, under Sections 323, 34, 498-A, of IPC (Section 406 IPC added and Section 34 IPC deleted later on). registered as Police Station Sanjay Gandhi Memorial Nagar, District Faridabad and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 07.11.2022 (Annexure P-2), which is stated to have been effected between the parties.

2 On 06.02.2023, the following order was passed:

The petitioner has filed petition under Section 482 Cr.P.C. for quashing of FIR No. 664 dated 09.11.2017, under Sections 323, 34, 498-A, of IPC (Section 406 IPC added and Section 34 IPC deleted later on). registered as Police Station Sanjay Gandhi Memorial Nagar, District Faridabad on the basis of compromise dated 07.11.2022 (Annexure P-2).

Let the statement of the parties concerned be recorded with regard to the compromise on 31.03.2023 before the learned Illaqa/Duty Magistrate, concerned or on any early date convenient to the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report.

1.

The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offenders or any such proceedings have been initiated or pending against them.

2.

Whether the compromise entered between the parties is genuine voluntarily without any coercion or undue influence.

3.

Statement of IO regarding involvement of petitioners in any other FIR.

4.

Status of the trial pending before the Court.
- To await the report, list again on 26.04.2023.
3.

Pursuant to the aforesaid order, report dated 10.04.2023 from Id. JMIC, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

1.	The number of accused in the aforesaid FIR and to report whether any of the accused has been declared proclaimed offenders or any such proceedings have been initiated or pending against them.	As per the statement of IO, initially four accused named in the FIR namely Devesh Singh Bhadoria, Prem Lata, Dashrath Singh and Anamika. During the investigation, accused Prem Lata, Dashrath Singh and Anamika were found innocent and accordingly challan was not filed against them. At present only accused Devesh Singh Bhadoria @ Devesh Bhadauria, is facing trial as challan has been filed only against him. As per the statement of IO, there is no other accused is a proclaimed offender/person in the present case and there is no other FIR pending against the accused.
2.	Whether the compromise entered between the parties is genuine voluntarily without any coercion or undue influence.	Parties were explained qua the genuineness and voluntariliness of the compromise to which they replied in affirmative. The compromise between the parties is prima face genuine.
3.	Statement of IO regarding involvement of petitioners in any other FIR	As per the statement of IO, no other FIR registered against the abovesaid accused
4.	Status of the trial pending before the Court	Prosecution evidence.

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-2).

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

7. 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.

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. 664 dated 09.11.2017, under Sections 323, 34, 498-A, of IPC (Section 406 IPC added and Section 34 IPC deleted later on). registered as Police Station Sanjay Gandhi Memorial Nagar, District Faridabad and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 07.11.2022 (Annexure P-2), are, hereby, quashed qua the petitioner.

29.02.2024

Jasmine Kaur

Whether speaking/reasoned

Whether reportable

(SUMEET GOEL)

JUDGE

Yes No

Yes No