

2024:PHHC: 015970
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-4454-2024 &
CRM-M-59675-2023
Date of Decision : 06.02.2024

Rasbhinder Singh and others

...Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.P. Kaushal, Advocate for Mr. S.S. Brar, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Charanjit Singh, Advocate for respondent No.2.

SUMEET GOEL, J. (ORAL)

CRM-4454-2024

Notice in the application.

Ms. Mahima Yashpal, DAG, Haryana, accepts notice on behalf of respondent No.1.

Mr. Charanjit Singh, Advocate, has entered appearance and accepts notice on behalf of respondent No.2.

For the reasons stated in the application and in view of the submissions made by learned counsel for the applicant-petitioner, the application in hand is allowed & the hearing of the main case is preponed from 20.02.2024 to today i.e. 06.02.2024.

Main case

1. By way of present petition, the petitioner is seeking quashing of FIR No.0498 dated 11.08.2023 under Sections 406, 498-A, 506 and 34 of IPC, registered at Police Station, City Mandi Dabwali District Sirsa, Haryana and all

consequential proceedings arising therefrom on the basis of compromise/affidavit dated 15.11.2023 (Annexure P-2) which is stated to have been effected between the parties.

2 On 28.11.2023 the following order was passed:

“Prayer in this petition is for quashing of FIR No.0498 dated 11.08.2023 (Annexure P-1) registered under Sections 406, 498-A, 506 and 34 of IPC at Police Station Mandi Dabwali, District Sirsa and all subsequent proceedings arising therefrom on the basis of compromise dated 15.11.2023 (Annexure P-2) having been arrived at between the parties.

Notice of motion.

Mr. Ranvir Singh Arya, Addl. AG, Haryana accepts notice on behalf of respondent No.1-State.

Mr. Charnjit Singh, Advocate accepts notice on behalf of respondent No.2 and has filed his power of attorney, which is taken on record. He also admits the factum of compromise arrived at between the parties.

List on 11.01.2024.

In the meantime, the parties are directed to appear before the trial Court/Area Magistrate for recording of their statements with regard to compromise on 14.12.2023 or any other convenient date to the Court.

The trial Court/Area Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. The number of persons arrayed as accused.*
- 2. Whether any accused is/are proclaimed offender/so proclaimed person/s.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other FIR/criminal case.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer with regard to the number of victims/complainants and the accused in the present case.*

3. Pursuant to the aforesaid order, report dated 14.12.2023 from Sub Divisional Judicial Magistrate, Dabwali has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“On 14.12.2023, statements of both parties recorded in compliance of direction of the Hon'ble Punjab & Haryana High Court, Chandigarh. Statement of Investigating Officer ASI Subhash Chander, Belt no. 464/Sirsa P.S. City Dabwali also recorded. My report in compliance of aforesaid order is as follows:

1. The number of persons arrayed as accused:

Perusal of the copy of the FIR as well as on the basis of statements of complainant, accused persons and Investigating Officer reflects that there are five accused namely (1) Rasbhinder Singh son of Jasvir Singh (2) Kulwinder Kaur wife of Jasvir Singh (3) Jasvir Singh son of Bakhshi Singh; all residents of village Rattangarh @ Kanakwal, Tehsil Talwandi Sabo, District Bathinda (4) Kiranjit Kaur wife of Manveer Singh & (5) Manveer Singh son of Pritpal Singh; both residents of village Masitan, Tehsil Dabwali, District Sirsa arrayed in the present FIR.

2. Whether any accused is/ are proclaimed offender/s or proclaimed person/s:

As per joint statement of accused persons and Investigating Officer ASI Subhash Chander, Belt no. 464/Sirsa P.S. City Dabwali, none of the accused has been declared as proclaimed offender or proclaimed person.

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence:

On 14.12.2023, both the parties appeared and their statements were recorded. Complainant Veerpal Kaur daughter of Swaran Singh and wife of Rasbhinder Singh son of Jasvir Singh, resident of village Desu Jodha, Tehsil Dabwali, District Sirsa made her separate statement that the matter has been compromised with the accused persons voluntarily, with free consent and without any pressure/ coercion and the present FIR may be quashed. She has also stated that compromise was effected on the basis of payment of Rs. 15,00,000/- by the accused side out of which she has already received an amount of Rs. 7,50,000/- from the accused in the first statement of Section 13-B of HMA in the Court of learned Principal Judge, Family Court, Dabwali and balance amount of Rs. 7,50,000/- shall be received at the time of second motion statement. Copy of compromise deed Ex.CI also

placed on record. Thereafter, joint statement of accused persons namely (1) Rasbhinder Singh son of Jasvir Singh (2) Kulwinder Kaur wife of Jasvir Singh (3) Jasvir Singh son of Bakhshi Singh; all residents of village Rattangarh @ Kanakwal, Tehsil Talwandi Sabo, District Bathinda (4) Kiranjit Kaur wife of Man- veer Singh & (5) Manveer Singh son of Pritpal Singh; both residents of village Masitan, Tehsil Dabwali, District Sirsa has also been recorded and they have also stated that the matter has been compromised with the complainant with free consent and without any pressure/coercion.

Both parties were identified by their respective learned counsel. It appears on the basis of statements of both sides that the compromise arrived between the parties is with their own free will, genuine and for benefit of both the parties.

4. Whether the accused persons are involved in any other FIR/ criminal case:

As per joint statement of accused persons and ASI Subhash Chander, Belt no. 464/Sirsa P.S. City Dabwali, none of accused is involved in any other case/ criminal case except accused namely Rasbhinder Singh against whom an FIR bearing no. 500 dated 13.08.2023 under Section 506 IPC P.S. City Mandi Dabwali has been registered.

5. The trial Court is also directed to record the statement of the Investigating Officer with regard to the number of victims/ complainants and the accused in the present case:

*As per statement of Investigating Officer ASI Subhash Chander, Belt no. 464/Sirsa P.S. City Dabwali, there is **one complainant** namely Veerpal Kaur daughter of Swaran Singh and wife of Rasbhinder Singh son of Jasvir Singh, resi- dent of village Desu Jodha, Tehsil Dabwali, District Sirsa and **five accused persons** namely (1) Rasbhinder Singh son of Jasvir Singh (2) Kulwinder Kaur wife of Jasvir Singh (3) Jasvir Singh son of Bakhshi Singh; all residents of village Rattan- garh @ Kanakwal, Tehsil Talwandi Sabo, District Bathinda (4) Kiranjit Kaur wife of Manveer Singh & (5) Manveer Singh son of Pritpal Singh; both residents of vil- lage Masitan, Tehsil Dabwali, District Sirsa. He also stated that initially, FIR was registered in this case under Sections 406, 498-A, 506 read with Section 34 IPC and later on, Section 323 IPC was also added.*

It is also submitted that as per report of the Ahlmad, final report/ challan has not been filed in this case.

Submitted please, for further necessary action.”

4. Learned counsel for respondents No.2 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 petitioner is quashed.

5. Similarly, learned State counsel has stated that he has 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 redominantly 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.0498 dated 11.08.2023 under Sections 406, 498-A, 506 and 34 of IPC, registered at Police Station Mandi Dabwali, District Sirsa and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 15.11.2023 (Annexure P-2) is, hereby, quashed qua the petitioners.

February 06, 2024

ps

(SUMEET GOEL)
JUDGE

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