

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-54543 OF 2019 (O&M)
DATE OF DECISION :- 26.02.2024**

Rahul

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rajesh Goyal, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Sandeep Yadav, Advocate
for Mr R.K. Girdhwal, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

CRM-32601 of 2022

Learned counsel for the applicant-petitioner seeks and is permitted to withdraw the present application.

Dismissed as withdrawn.

CRM-M-54543 OF 2019

1. By way of present petition, the petitioner is seeking quashing of FIR No. 219 dated 16.10.2019 under Sections 323,376(2)(n),376D,328,506 of IPC, registered at Women Police Station, Panipat and all consequent proceedings arising therefrom on the basis of compromise/ dated 02.12.2019 (Annexure P-2), which is stated to have been effected between the parties.

2. On 19.12.2019, the following order was passed:

“The petitioner has approached this Court seeking quashing of FIR No.219 dated 16.10.2019 registered at Police Station Women Police Station, Panipat under Sections 323, 376(2)(n), 376-D, 328

and 506 of Indian Penal Code and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

The learned counsel for the petitioner has submitted that the FIR came to be lodged under some misunderstanding and that infact the petitioner and the victim i.e. respondent No.2 have already solemnized marriage and that respondent No.2/victim is presently staying with her father-in-law.

Notice of motion for 6.3.2020.

At this stage, Mr. R.K. Girdhwal, Advocate has today put in appearance on behalf of respondent No.2 and has filed power of attorney, which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 20.1.2020 for getting their statements recorded qua the factum of compromise.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

The Illaqa Magistrate/trial Court shall also furnish the following information:-

- 1. Whether there is any other accused other than the petitioner, arrayed in this petition?*
- 2. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?"*

3. Pursuant to the aforesaid order, report dated 19.12.2019 from Judicial Magistrate Ist Class, Panipat has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In the above matter both the parties appeared and filed an application for recording their statements in pursuance of order dated 19.12.2019 passed by Hon'ble High Court of Punjab & Haryana through Hon'ble Mr. Justice Gurvinder Singh Gill, Judge.

2. On oral inquiry, both the parties have stated that the matter has been settled amicably without any pressure and inducement. I also specifically inquired from the complainant about the validity of compromise. She has stated that the compromise arrived at in the said matter is voluntary and without any pressure or coercion.

3. Statements of both the parties regarding compromise have been recorded by the undersigned. The deponents have been duly identified by the respective learned counsel. Photographs and identity proofs have also been affixed with each statement. Same are attached herewith.

4. In view of the statements suffered by the parties and oral inquiries of the complainant victim, the undersigned is satisfied that the matter has been settled between the parties amicably/voluntarily without any pressure or coercion.

5. Further, the Hon'ble High Court has sought the report of undersigned on following two points:

(a) Whether there is any other accused other than the petitioner arrayed in this petition?

It is humbly submitted that the memo of parties as placed on file of undersigned reflects that there is no other petitioner. Further, the final report has also been submitted only against Rahul. However, in the complaint name of one Anil Gurjar is also mentioned.

(b) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

It is humbly submitted that the complaint was filed by Sheetal upon which the present proceedings were lodged and no other person appears to be aggrieved.”

4. Learned counsel appearing 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 is 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 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. 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.*

9. 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.*

10. Consequently, the petition is allowed. FIR No. 219 dated 16.10.2019 under Sections 323,376(2)(n),376D,328,506 of IPC, registered at Women Police Station, Panipat and all consequent proceedings arising therefrom on the basis of compromise dated 02.12.2019 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

26.02.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No