

2024:PHHC:016426

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

286

**CRM-M-61581-2023
Date of decision: 06.02.2024**

Kanwaljeet Singh

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajbir Singh Mundra, Advocate, for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.130 dated 25.04.2023 under Sections 354/354-D of IPC, registered at Police Station, Dera Bassi, Tehsil Dera Bassi, District SAS Nagar (Mohali) and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 06.11.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 11.12.2023, the following order was passed:

- 1. The petitioner seeks to quash the FIR No.130 dated 25.04.2023 under Sections 354/354-D IPC registered at Police Station Dera Bassi, Tehsil Dera Bassi, District SAS Nagar (Mohali) on the basis of compromise.*
- 2. Learned counsel for the petitioner contends that the victim/respondent No.2 is aged about 29 years. As per the allegations, the petitioner and respondent No.2 were in touch*

with each other on face-book. The petitioner had allegedly taken the screen shot of some obscene photographs of respondent No.2. With the intervention of the relatives and respectables, an amicable settlement has been effected between the parties in terms of the compromise, Annexure P-2.

3. Notice of motion.

4. Ms. Ruchika Sabharwal, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

5. Mr. Varinder Singh, Advocate, has appeared on behalf of respondent No.2, placed on record vakalatnama and acknowledged the fact of compromise.

6. The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 09.01.2024. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

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

1. Number of persons arraigned as accused in FIR;

2. Whether any accused is proclaimed offender;

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

4. Whether the accused persons are involved in any other case or not.

5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

8. To await the report, list again on 06.02.2024.”

3. Pursuant to the aforesaid order, report dated 18.01.2024 from Sub-Divisional Judicial Magistrate, Dera Bassi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“From the statements of the parties so recorded in the court, and the statement of Investigating Officer, it is reported that:-

1. *As per the statements of the parties and the Investigating Officer, the number of persons arraigned as accused in FIR is only 01 i.e. Kanwaljeet Singh.*
2. *As per the statement of the parties and the Investigating Officer, the accused is not proclaimed offender.*
3. *As per the statements of the parties, the compromise arrived at between the parties is genuine, voluntary, and without any coercion or undue influence.*
4. *As per the statement of parties and the Investigating Officer, the accused Kanwaljeet Singh is not involved in any other case, except present FIR.*
5. *In compliance of directions of Hon'ble High Court, the statement of Investigating Officer is also recorded, as per which, there is no other victims/complainants in present FIR, except Geeta."*

4. Learned counsel for respondent 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 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, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, 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. 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) *The present matter does not fall within the exceptions as carved out in Laxmi Narayan's case (supra) i.e. heinous offence.*
- (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.130 dated 25.04.2023 under Sections 354/354-D of IPC, registered at Police Station, Dera Bassi, Tehsil Dera Bassi, District SAS Nagar (Mohali) and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 06.11.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

February 06, 2024
poonam

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