

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-62369-2023
Date of decision: 09.05.2024

RAHUL SAINI
V/s
....PETITIONER

STATE OF PUNJAB AND ANOTHER
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nikhil Vats, Advocate for
Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Ms. Amandeep Kaur, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioner is seeking quashing of FIR No.0005 dated 23.06.2022 under Section 498-A of IPC (Section 406 of IPC added later on) registered at Police Station, Women, District SAS Nagar (Mohali) and all consequential proceedings arising therefrom on the basis of compromise dated 04.08.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 12.12.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0005 dated 23.06.2022 under Sections 498-A of the Indian Penal Code, 1860 (Section 406 IPC added later on) registered at Police Station Women, District SAS Nagar (Mohali), and all other consequential proceedings arising there-from, on the basis of a compromise dated 04.08.2023 (Annexure P-2). Learned counsel for the petitioner would contend that the FIR is the result of matrimonial discord between the parties and now all disputes stand settled between them. Learned counsel for the petitioner would further contend that a petition for grant

of divorce by mutual consent has also been filed by the parties in which first motion statements stand recorded. The learned counsel for the petitioner has relied upon the judgement of Hon'ble Supreme Court rendered in "Gian Singh Vs. State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgement of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. M.S. Tiwana, AAG Punjab accepts notice on behalf of respondent No.1-State. Ms. Amandeep Kaur, Advocate accepts notice for respondent No.2/complainant. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. She further submits that the said compromise has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 has no objection if the aforesaid FIR is quashed in view of the compromise.

List on 15.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 24.01.2024, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

- 1) Whether the compromise dated 04.08.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether all the accused are party to the compromise.*
- 3) Whether any other criminal cases are pending against the parties.*
- 4) Whether any proclamation proceedings are pending against either of the parties."*

3. Pursuant to the aforesaid order, report dated 08.05.2024 from Judicial Magistrate, Ist Class, SAS Nagar, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"1. The compromise dated 04.08.2023 seems to have been effected with their free consent and Will and without any pressure

2. *It appears from the statement of IO that all the accused as well as victim are party to the compromise.*

3. *It appears from the statement of IO that other criminal cases are not pending against the parties.*

4. *It further appears from the statement of IO that no proclamation proceedings are pending against either of the parties.”*

4. Learned counsel for respondent No.2 admits the factum of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioner are 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 the Hon'ble 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 the Hon'ble 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) 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.0005 dated

registered at Police Station, Women, District SAS Nagar (Mohali) and all consequential proceedings arising therefrom on the basis of compromise dated 04.08.2023 (Annexure P-2), are, hereby, quashed qua the petitioner.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 09, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No