

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

CRM-M-63132-2023
Date of Decision : April 01, 2024

Raj Kaur Sidhu and ors

.....Petitioner(s)

Versus

U.T. Chandigarh and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Nandan Jindal, Advocate
 for the petitioners.

 Mr. Sidakmeet Sandhu, Additional P.P.
 for UT, Chandigarh.

 Mr. Pratham Sethi, Advocate
 for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking quashing of FIR No.33 dated 08.06.2023 registered under Sections 323/341/452/506/120-B of IPC at Police Station Sector-19, Chandigarh and all consequent proceedings arising therefrom on the basis of compromise.

2 On 15.12.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.33 dated

08.06.2023, registered for offences punishable under Sections 323/341/452/506/120-B IPC at Police Station Sector 19, Chandigarh and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 01.04.2024.

Mr. Sidakmeet S. Sandhu, Addl. P.P., U.T., Chandigarh appears and accepts notice on behalf of respondent No.1.

Mr. Pratham Sethi, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 16.01.2024. On their doing so, the learned Trial Court/Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the 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.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3 Pursuant to the aforesaid order, report dated 04.03.2024 from Judicial Magistrate 1st Class, Chandigarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“With due respect, it is submitted that vide order passed by the Hon'ble High Court of Punjab and Haryana dated 15.12.2023, it has been directed that the parties would appear before the Trial Court/Illaq Magistrate for recording their statements qua compromise.

In this regard, it is respectfully submitted that the complainant Harpal Singh Malvai appeared in the Court. He has stated that:-"I am the complainant in the present case. I am aware about the facts of the present case. The FIR No. 33 dated 08.06.2023, under Sections 323/341/452/506 & 120B of IPC, PS-19, Chandigarh was got registered by me. There are three accused persons namely Mrs. Raj Kaur Sidhu, Amar Partap Singh Sidhu and Kohal Dev Sharma and one complainant Harpal Singh Malvai in the present case. Now, I have entered into compromise with accused persons. Now, I do not want to pursue further this case. I state that the compromise between me and accused persons is genuine, voluntary and without any coercion or undue influence. There is no other victim in the present case. I have placed on record the compromise deed Ex. CX. I have not filed any police complaint before the police authority against the abovesaid accused persons. I have given a request for withdrawal of my complaint against Advocate Kohal Dev Sharma in the Bar Council of Punjab and Haryana at Sector 37, Chandigarh and also I do not want to pursue the above complaint in the Bar Council against him. I have no objection if the FIR is quashed against accused Mrs. Raj Kaur Sidhu, Amar Partap Singh Sidhu and Kohal Dev Sharma"

Further, accused Mrs. Raj Kaur Sidhu appeared before the Court. She has stated that: "I am the accused in the FIR No.33 dated 08.06.2023, under Sections 323/341/452/506 & 120B of IPC, PS-19, Chandigarh. I have entered into compromise with the complainant Harpal Singh Malvar. The compromise was entered into with free consent and without any force and pressure. The compromise is genuine, voluntary and without any coercion or undue influence. I have placed on record the compromise deed Ex. CX. There is no other

criminal case pending against me and I have never been declared proclaimed offender by any court of law. There is no other victim in the present case. I request to quash the present FIR against me."

Further, accused Amar Partap Singh Sidhu appeared before the Court. He has stated that: "I am the accused in the FIR No. 33 dated 08.06.2023, under Sections 323/341/452/506 & 120B of IPC, PS-19, Chandigarh. I have entered into compromise with the complainant Harpal Singh Malvar. The compromise was entered into with free consent and without any force and pressure. The compromise is genuine, voluntary and without any coercion or undue influence. I have placed on record the compromise deed Ex CX. There is no other criminal case pending against me and I have never been declared proclaimed offender by any court of law There is no other victim in the present case. I request to quash the present FIR against me."

Further, accused Kohal Dev Sharma appeared before the Court He has stated that: "I am the accused in the FIR No. 33 dated 08.06.2023, under Sections 323/341/452/506 & 120B of IPC, PS-19, Chandigarh. I have entered into compromise with the complainant Harpal Singh Malvai. The compromise was entered into with free consent and without any force and pressure. The compromise is genuine, voluntary and without any coercion or undue influence. I have placed on record the compromise deed Ex CX. There is no other criminal case pending against me and I have never been declared proclaimed offender by any court of law. As per the assurance of the complainant that he withdraw the complainant against me pending before the Bar Council of Punjab and Haryana at Sector 37, Chandigarh and also the same would not be pursued in the future by the complainant. There is no other victim in the present case. I request to quash the present FIR against me."

On 08.02.2024, the statement of 10 SI Ashok Kumar was also recorded. He has stated: "I am the 10 of the present case. I am aware about the facts of the present case having FIR No.33 dated 08.06.2023, under Sections 323/341/452/506 & 120B of IPC, PS-19, Chandigarh against accused Mrs. Raj Kaur Sidhu, Amar Partap Singh Sidhu and Kohal Dev Sharma. There is only three persons arrayed as accused in the present FIR. Further, it is submitted that in the present case there is one complainant namely Harpal Singh Malvai, on whose complaint present FIR was registered. Accused persons namely Mrs. Raj Kaur Sidhu, Amar Partap Singh Sidhu and Kohal Dev Sharma have never

been declared proclaimed persons in the present case and no other FIR is pending against the accused Mrs. Raj Kaur Sidhu, Amar Partap Singh Sidhu and Kohal Dev Sharma.”

In compliance of the aforesaid order dated 15.12.2023 of the Hon'ble Punjab and Haryana High Court, it is most humbly submitted that in view of the aforementioned statements got recorded by all the parties, this Court is satisfied that the compromise effected between the parties seems to be genuine, authentic and voluntary, which is not the result of any pressure, coercion or undue influence.

The point-wise report is as follows:-

1. Number of persons arrayed as accused in the FIR.

As per statement of IO, there are three accused in the present case. No other accused is involved.

2. Whether any accused is proclaimed offender?

As per the statement of IO, accused has never been declared proclaimed offenders/proclaimed persons.

3. Whether the compromise is genuine, any coercion or undue influence?

Yes, the compromise so arrived at genuine, voluntary and without between the parties is voluntary and without any coercion or undue influence.

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

As per the statement of IO, there is no or other FIR/ criminal case registered against the accused persons.

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.

As per statement of IO, there is one complainant/victim in the present case.

The requisite report is submitted accordingly along with the copies of statements of parties & IO and copies of their identity proof for the kind perusal of Your Good-self.”

4 Learned counsel for respondents 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 petitioners 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 recognizing compromise between parties 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 wiser 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 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.33 dated

08.06.2023 registered under Sections 323/341/452/506/120-B of IPC at Police Station Sector-19, Chandigarh and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

01.04.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No