

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63919-2023
Date of decision: 15.04.2024

SHEELA BAI AND ANOTHER
V/s
STATE OF PUNJAB AND OTHERS
....PETITIONERS
....RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.P.S. Chakkal, Advocate for
Mr. S.S. Sarwana, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. M.S. Bhatti, Advocate for
Mr. Kulwinder Singh, Advocate
for respondent Nos.2 &3.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No.48 dated 07.05.2023 under Sections 363, 366-A of IPC (Section 120-B of IPC added later on) registered at Police Station, Bilga, District Jalandhar Rural and all consequential proceedings arising therefrom on the basis of compromise dated 29.11.2023 (Annexure P-2), which is stated to have been effected between the parties.

2. On 20.12.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.48 dated 07.05.2023 under Sections 363, 366-A of the Indian Penal Code, 1860 (Section 120-B IPC added later on) registered at Police Station Bilga District Jalandhar Rural (Annexure P-1), and all other consequential proceedings arising there-from, on the basis of a compromise dated 29.11.2023 (Annexure P-2). Learned counsel for the petitioners would contend that all disputes now stand resolved between the parties by way of a compromise dated 29.11.2023 (Annexure P-2). Learned counsel

for the petitioners 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. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Kulwinder Singh, Advocate accepts notice for respondent Nos.2 and 3. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent Nos.2 and 3 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. Learned counsel further submits that respondent Nos.2 and 3 have no objection if the aforesaid FIR is quashed in view of the compromise between the parties.

List on 15.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 01.02.2024, 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 29.11.2023 (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 07.03.2024 from Additional District & Sessions Judge, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"With reference to subject, the undersigned has honour to submit desired report in view of order dated 20.12.2023 passed by Hon'ble High Court of Punjab & Haryana in CRM-M-63919 of 2023 titled as Sheela Bai & another vs State of Punjab & others.

Vide order dated 20.12.2023, Hon'ble High Court of Punjab & Haryana is pleased to direct this court to submit its report regarding whether the compromise dated 29.11.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind and whether all the accused are party to the compromise and whether any other criminal cases are pending against the parties and whether any proclamation proceedings are pending against either of the parties.

That in compliance of order passed by Hon'ble High Court of Punjab & Haryana, parties to the subject petition appearing in court on 01.02.2024 and have suffered their respective statements. Please find enclosed copies of statements, herewith for your kind perusal. Report from the SHO P.S. Bilga, was also called to ascertain if any criminal case is pending against parties or not. As per report, neither any criminal case against accused Surinder Singh alias Babbu son of Rajpal resident of Village Tibba, PS Sidhwan Bet, District Ludhiana and Sheelo Bai wife of Rajpal Singh resident of Village Tibba, PS Sidhwan Bet, District Ludhiana nor complainant/witness Paramjit Kaur and Amarjit Kaur is pending except the present case.

From the statements of parties, this court is satisfied that compromise effected between the parties is genuine and has been executed by them voluntarily, without any pressure or coercion. No criminal case is pending either against accused or complainant of the case. With aforesaid submissions, the report is being sent for kind consideration of your goodself and further proceedings.”

4. Learned counsel for respondent Nos.2 & 3 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 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 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. 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 CRM-M-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.48 dated 07.05.2023 under Sections 363, 366-A of IPC (Section 120-B of IPC added later on) registered at Police Station, Bilga, District Jalandhar Rural and all consequential proceedings arising therefrom on the basis of compromise dated 29.11.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

April 15, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No