

289 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64763-2023
Date of Decision : April 03, 2024

Sandeep KaurPetitioner
Versus
State of Punjab and anotherRespondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Rajeev Sharma, Advocate for the petitioner.
Mr. J.S.Arora, DAG, Punjab.
Mr. Vikrant Duggal, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioner is seeking quashing of FIR No.131 dated 21.09.2023 registered under Sections 408, 465, 467, 468, 471, 120-B of IPC, 1860 at Police Station Sarabha Nagar, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise.

2 On 22.12.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction. of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.131 dated 21.09.2023, registered for offences punishable under Sections 408, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Sarabha Nagar, Ludhiana and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2. Notice of motion for 03.04.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears

and accepts notice on behalf of respondent No.1-State.

Mr. Vikrant Duggal, 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 15.02.2024. 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 Duty Magistrate/Illaq Magistrate/trial Court 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 23.02.2024 from Chief Judicial Magistrate, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reference to captioned subject, I beseech the honour to submit that in compliance of the directions given in the order dated 22.12.2023 by Hon'ble Punjab & Haryana High Court, in CRM-M-64763 of 2023, titled "Sandeep Kaur versus State of Punjab and another", the complainant/respondent No.2 namely Jaspreet Singh

appeared in the Court on 15.02.2024 with counsel Shri Ashish Walia, Advocate and made statement to the effect that the present case bearing FIR no. 131 dated 21.9.2023 under Sections 408/465/467/468/471/120-B IPC was registered at Police Station Sarabha Nagar on his statement against Sandeep Kaur daughter of Jaspal Singh, resident of village Maini, Machhiwara Sahib, District Ludhiana and Ashutosh Kundra son of Vinod Kumar Kundra, resident of House no. 588, Ward no. 32, Chhauni Mohalia, Bagga Kalan, Central Post office, Ludhiana. He further stated that with the intervention of the respectables, he has entered into a compromise with Sandeep Kaur and now he does not want to pursue any kind of proceedings against accused Sandeep Kaur. He further stated that on the basis of compromise, he along with accused Sandeep Kaur through her lawful power of attorney Karamjit Kaur wife of Jaspal Singh had filed petition under Section 482 Cr.P.C. vide CRM-M no. 64763 of 2023 before Hon'ble Punjab and Haryana High Court for quashing the present FIR. He further stated that he entered into compromise with the accused Sandeep Kaur with his free consent without any pressure or threat and present compromise is result of free consent, without any pressure, threat or coercion. He further stated that he has no objection if accused Sandeep Kaur be acquitted in the present case as well as the present case be quashed by the Hon'ble High Court. Copy of his aadhar card is Mark-A.

Similarly, Karamjit Kaur, attorney of petitioner Sandeep Kaur appeared in the Court with counsel Shri Lakhwinder Singh, Advocate and suffered statement to the effect that the present case bearing no. 131 dated 21.9.2023 under Sections 408/465/467/468/471/120-B IPC was registered at Police Station Sarabha Nagar against his daughter Sandeep Kaur on the statement of complainant Jaspreet Singh. She further stated that with the intervention of the respectables, Sandeep Kaur has entered into a compromise with complainant and on the basis of compromise, her daughter along with complainant had filed a petition under Section 482 Cr.P.C. vide CRM-M no. 64763 of 2023 before Hon'ble Punjab and Haryana High Court for quashing the present FIR. She further stated that she entered into compromise with the complainant with her free consent without any pressure or threat and present compromise is result of free consent, without any pressure, threat or coercion. She further stated that no other case is registered or pending against her daughter. Copy of power of attorney in her

favour is Mark-B and copy of her aadhar card is Mark-C.

3. Thereafter, Investigating Officer ASI Umesh Kumar no. 1385-LDH, PS Sarabha Nagar, Ludhiana appeared in the Court and got recorded his statement to the effect that he is the Investigating officer of the case bearing FIR no. 131 dated 21.9.2023 was registered under Sections 408, 465, 467, 468, 471, 120-B IPC at PS Sarabha Nagar, Ludhiana. He further stated that in the aforesaid FIR, there are two accused namely Ashutosh Kundra and Sandeep Kaur and they are not involved in any other criminal case. He further stated that no accused has been declared as proclaimed offender in this case. He further stated that there is one complainant in this case, who is namely Jaspreet Singh son of Jaspal Singh.

4. In view of the statements of complainant/respondent no.2 Jaspreet Singh and statement of Karamjit Kaur, attorney of petitioner Sandeep Kaur, as detailed herein-above, it emerges on record that the matter has been compromised between them with the intervention of respectables of the society with free will, voluntarily and without any pressure, threat, undue influence or coercion from any quarter. It also emerges from the statement of Investigating Officer ASI Umesh Kumar that there are two accused namely Ashutosh Kundra and Sandeep Kaur and they are not involved in any other criminal case. He further stated that no accused has been declared proclaimed offender in this case. He further stated that there is one complainant in this case namely Jaspreet Singh i.e. respondent No.2. Statements of the parties and Investigating Officer along with documents are attached herewith.”

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 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 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.131 dated 21.09.2023 registered under Sections 408, 465, 467, 468, 471, 120-B of IPC, 1860 at Police Station Sarabha Nagar, Ludhiana and all proceedings arising therefrom are hereby quashed *qua* the petitioner.

(PANKAJ JAIN)
JUDGE

03.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No

