

2024:PHHC:016354

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

294

**CRM-M-65242-2023
Date of decision: 06.02.2024**

Gurwinder Singh and another

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Shoryaveer Vashist, Advocate, for the petitioners.

Mr. Anup Singh, AAG, Punjab,
for respondent No.1.

Mr. Shailender Kumar Saini, Advocate,
for complainant-respondent No.2.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.69 dated 09.09.2022 under Sections 406 and 498-A of IPC, registered at Police Station, Women, District Patiala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 20.12.2023 (Annexure P-3), which is stated to have been effected between the parties.

2 On 04.01.2024, the following order was passed:

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion.

At this stage, Mr. Shubham Kaushik, AAG, Punjab, has put in appearance on behalf of respondent No.1-State of Punjab and accepts notice.

Mr. Salinder Kumar Saini, Advocate has filed vakalatnama for respondent No. 2. The same be taken on record.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioners shall appear before the trial Court/Illaqa Magistrate concerned on 09.01.2024 or any date thereafter as fixed by trial Court/Illaqa Magistrate for recording statements of the petitioners as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Illaqa Magistrate shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaqa Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaqa Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaqa Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaqa Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a

valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaq Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 06.02.2024.”

3. Pursuant to the aforesaid order, report dated 11.01.2024 from Judicial Magistrate, Ist Class, Patiala, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“The detailed report as desired is submitted as under:-

i. Whether there is any other accused other than the petitioners, arrayed in this petition?

So, as to give opinion regarding number of persons arrayed as accused in the present FIR, this Court has recorded the statement of HC Paramjit Singh, No.1542/PTA, presently posted at P.S.Women, Patiala. As per his statement, in the present case as per the FIR No.69 dated 09.09.2022 under section 406, 498A IPC, Police Station Women, Patiala, only two accused namely Gurwinder Singh and Balwant Kaur have been arrayed as accused. There is no other accused other than the petitioners Gurwinder Singh and Balwant Kaur. Accused Gurwinder Singh and Balwant Kaur have appeared in the court and have made statement qua the compromise.

ii. Whether there is any other complainant or affected aggrieved party other than the respondents arrayed in the petition?

As per statement of HC Paramjit Singh, No.1542/PTA, presently posted at P.S. Women, Patiala in the present case as per the FIR

No.69 dated 09.09.2022 under section 406, 498A IPC, Police Station Women, Patiala, Surinderpal Kaur daughter of Sh. Nazar Singh is complainant. There is no other complainant or affected aggrieved party other than the respondent Surinderpal Kaur arrayed in the petition. Surinderpal Kaur complainant/victim appeared in the court for recording of her statement in support of the compromise.

iii. *Whether any accused has been declared proclaimed offender?*

As per statement of HC Paramjit Singh, No.1542/PTA, P.S.Women, Patiala, accused Gurwinder Singh and Balwant Kaur have never declared as proclaimed offender in this case or in any other criminal case.”

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 petitioners 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-3).

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, 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) *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.69 dated 09.09.2022 under Sections 406 and 498-A of IPC, registered at Police Station, Women, District Patiala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 20.12.2023 (Annexure P-3) are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 06, 2024
poonam

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