



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

304-2

CRM-M-36926-2024

Date of decision: 16.01.2025

BALRAJ SINGH AND ORS

....PETITIONERS

V/s

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Shubkarman Kumar, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Manoj Kaushik,, Advocate
for respondent Nos.2 to 6.

SUMEET GOEL, J.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of DDR No.3 dated 04.07.2024 under Sections 323, 324, 148, 149 of IPC and under Sections 325 and 326 of IPC added later on, registered at Police Station Dera Baba Nanak, District Batala (Annexure P-2) in FIR No.79 dated 03.07.2024 under Sections 323, 324, 148, 149 of IPC (Sections 325 and 326 of IPC added later on) registered at Police Station Dera Baba Nanak, District Batala and all consequential proceedings arising therefrom on the basis of compromise dated 09.07.2024 (Annexure P-3), which is stated to have been effected between the parties.

2. On 03.10.2024, the following order was passed:

“This is a petition under Section 528 of The Bharatiya Nagarik Suraksha Sanhita 2003, for Quashing of DDR No. 3 dated 04.07.2024 under Sections 323, 324, 148, 149 of IPC & U/s 325, 326 of IPC added lateron), Police Station-Dera Baba Nanak, District-Batala in FIR no. 79 dated 03.07.2024 U/s 323, 324, 148, 149 of IPC & U/s 325, 326 of IPC added lateron),



Police Station-Dera Baba Nanak, District-Batala (Annexure P-), alongwith all the subsequent proceedings arising out of it, in view of settlement/Compromise dated 09.07.2024 (Annexure P-3), in the interest of justice.

Notice of motion.

On the asking of the Court, learned State Counsel accepts notice on behalf of respondent No.1-State.

Mr. Manoj Kaushik, Advocate has put in appearance on behalf of respondent No. 2 to 6. He admits the factum of compromise entered into between the parties.

List on 08.11.2024.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court within a period of two weeks from today, for recording of their statements with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is declared as proclaimed offender?*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- (iv) Whether the accused persons are involved in any other FIR or not?*

3. Pursuant to the aforesaid order, report dated 09.01.2025 from Additional Civil Judge (Senior Division) Cum-Sub Divisional Judicial Magistrate, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

(i). As per record and as per the statement of ASI Sukhwinder Singh No.3122/BTL, PS Dera Baba Nanak, in the present DDR, there are nine accused namely Balraj Singh son of Balbir Singh, Balbir Singh son of Satnam Singh, Satnam Singh son of Balbir Singh, Navjot Singh son of 1 Satnam Singh, Rajbir Singh son of Janga Singh, Amandeep Kaur wife of Balraj Singh, Lakhwinder Kaur wife of Balbir Singh, Kulwant Singh son of Darshan Singh and Navjot Singh son of Kulwant Singh, all are residents of Village Hardowal, Tehsil Dera Baba Nanak, District Gurdaspur have been arrayed accused.

(ii) As per record and as per the statement of ASI Sukhwinder Singh No.3122/BTL, PS Dera Baba Nanak neither any accused had been declared as proclaimed person/offender nor any P.O. proceedings are pending against any of the accused.

(iii) In view of the statements got recorded by both the parties, this Court is satisfied that the compromise effected between them is genuine, voluntary and without any coercion or undue influence.

(iv) As per record and as per the statement of ASI Sukhwinder



Singh No.3122/BTL, PS Dera Baba Nanak, accused persons are not involved in any other FIR except the present FIR.”

4. Learned counsel for respondent Nos.2 to 6 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-3).

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.*

The statutory provision of Section 528 of BNSS, 2023 is same as the statutory provision of Section 482 of Cr.P.C., 1973. Therefore, the above said principles of law would apply to a petition under Section 528 of BNSS, 2023 as well.



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 528 of BNSS,2023 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. DDR No.3 dated 04.07.2024 under Sections 323, 324, 148, 149 of IPC and under Sections 325 and 326 of IPC added later on, registered at Police Station Dera Baba Nanak, District Batala (Annexure P-2) in FIR No.79 dated 03.07.2024 under Sections 323, 324, 148, 149 of IPC (Sections 325 and 326 of IPC added later on) registered at Police Station Dera Baba Nanak, District Batala and all consequential proceedings arising therefrom on the basis of compromise dated 09.07.2024 (Annexure P-3), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

January 16, 2025

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No