



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

306

CRM-M-48579-2024

Date of decision: 16.01.2025

PAVITTAR SINGH AND OTHERS

...PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Ravinder Kaur, Advocate for
Mr. Gurcharan Dass, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Vikas Kumar, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.107 dated 04.07.2024 under Sections 406, 420, 120-B of IPC, registered at Police Station Sidhwan Bet, Tehsil and District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 27.08.2024 (Annexure P-4), which is stated to have been effected between the parties.

2. On 27.09.2024, the following order was passed:

*“The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for quashing of FIR No.107 dated 04.07.2024 under Sections 406/420/120-B of IPC, 1860 registered at Police Station Sidhwan Bet, Tehsil & District Ludhiana (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of compromise dated 27.08.2024 (Annexure P-4) arrived at between the parties.
Notice of motion.*



At the asking of the Court, Ms. Manjot Kaur, AAG, Punjab appears and accepts notice on behalf of respondent No.1-State. A copy of the paper book be supplied to her during the course of the day.

Mr. Vikas Kumar, Advocate has appeared and filed his power of attorney on behalf of respondent No.2 today in the Court and the same is taken on record. He affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 30 days, for getting their statements recorded with regard to the compromise by moving an application or presenting this order. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;*
- (ii) whether challan is presented in the Court? If so, against how many accused;*
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;*
- (iv) status/stage of the trial/case;*
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;*
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.*

Report be sent through the District & Sessions Judge, before the next date of hearing.

Learned counsel for the petitioners submits that petitioner No.6 is residing abroad and he has executed General Power of Attorney in favour of his real brother i.e. petitioner No.2. He further submits statement of petitioner No.6 may be recorded through video conferencing.

Let, application in this regard be moved before the concerned Court.

Adjourned to 16.01.2025.

The petitioners shall deposit costs of Rs.10,000/- with the Institute for the Blinds, Sector-26, Chandigarh on or before the date of recording of their statements and produce copy of receipt before the trial Court/Illaqa Magistrate."

3. Pursuant to the aforesaid order, report dated 28.10.2024 from Judicial Magistrate Ist Class, Jagraon has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"i) As per the statements of the parties as well as investigating officer, six accused persons are facing trial in the present case.



ii) As per the statements of the parties as well as investigating officer, challan in the present case has not been presented till today.

iii) As per the statement of parties as well as investigating officer, accused are not declared proclaimed offender in the present case.

iv) As per the statements of the parties as well as investigating officer, challan in the present case has not been presented till today.

v) The compromise effected between the parties is genuine, voluntary and out of free will of the parties.

vi) Statement of investigating officer with regard to points No. (i), (ii), (iii) and (iv) recorded.”

4. Learned counsel for respondent 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-4).

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. FIR No.107 dated 04.07.2024 under Sections 406, 420, 120-B of IPC, registered at Police Station Sidhwan Bet, Tehsil and District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 27.08.2024 (Annexure P-4), are, hereby, quashed qua the petitioners.

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

(SUMEET GOEL)
JUDGE

January 16, 2025

jatn

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No