

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

CRM-M-784-2021 (O&M)
Date of decision : 29.09.2022

Varinder Singh Sekhon and another

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Janak S. Bhinder, Advocate
for the petitioners.

Mr. Madhur Sharma, Asstt. Advocate General, Punjab
for respondent No.1/State.

Mr. Jagmeet S. Moudgill, Advocate
for respondent No.2/Complainant.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.229, dated 18.12.2020 registered for the offences punishable under Sections 406, 420, 506 read with Section 120-B of the IPC and Section 13 of Punjab Travel Professionals Act (Regulations) 2014, at Police Station Phase-I, SAS Nagar, Mohali (Annexure P-1) on the basis of compromise.

2. On 08.01.2021, the following order was passed:-

“Case heard by video conferencing.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between them and respondent no. 2, of FIR no. 229 dated 18.12.2020, registered at Police Station Phase-I, SAS Nagar, District Mohali, for the alleged commission of

offences punishable under Sections 406/420/506/120-B of the IPC and Section 13 of the Punjab Travel Professionals (Regulations), Act, 2014, as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Ms. Monika Jalota, D.A.G., Punjab, accepts notice at the asking of the court on behalf of respondent no.1.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

Adjourned to 23.04.2021.

Respondent no. 2 be served by way of normal process by the next date of hearing.

In the meanwhile, the petitioners, as also respondent no. 2, would appear before the learned trial court/Ilaqa Magistrate upto 10.02.2021 to record their statements. The trial court/Ilaqa Magistrate would satisfy itself/ herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

Learned State counsel would also verify whether there are any criminal cases, of like nature or otherwise, pending against the petitioners.

A gazetted officer is also directed to file a reply to the petition.”

3. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, SAS Nagar, Mohali dated 28th January, 2021 has been received,

which is taken on record. As per the report, the trial Court has recorded as follows:-

“The report is submitted as under:-

1. As per the statement of parties, compromise appears to be genuine without any undue influence or pressure.
2. As per the statement of accused, there is no other person involved in the occurrence whose consent is required for the compromise nor any other criminal case of like nature is pending against them.”
4. Ld. Counsel appearing for respondent No.2/complainant and 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 are quashed.
5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.
6. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.
7. After considering judgment rendered by the Apex Court in **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 not affected 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).
- (ii) The offences 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 has entered into compromise on his own volition.

9. Consequently, the petition is allowed. FIR No.229, dated 18.12.2020 registered for the offences punishable under Sections 406, 420, 506 read with Section 120-B of the IPC and Section 13 of Punjab Travel Professionals Act (Regulations) 2014, at Police Station Phase-I, SAS Nagar, Mohali (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

September 29, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No