

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

CRM-M-1098-2020

Date of decision : 16.09.2022

Rishab Goyal and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gopal Singh Nahel, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Ms. Shweta Sharma, Advocate for
Mr. Gangandeep Singh, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.273 dated 01.11.2019, registered for the offences punishable under Sections 186, 353, 323, 506, 427 and 34 IPC at Police Station Lehragaga, District Sangrur, on basis of compromise dated 31.12.2019 (Annexure P-2).

Counsel for the petitioners submits that the allegations w.r.t. offence punishable under section 186 IPC are regarding altercation of the employees of Punjab State Power Corporation Ltd. Counsel thus contends that it will be highly debatable as to whether Section 186 IPC is attracted keeping in view that employees of the Punjab State Power Corporation Ltd. cannot be treated as Government servants.

On 23.09.2021, the following order was passed:-

“CRM-30351-2021

Prayer in this application is for preponing the date fixed in the main petition.

Heard.

For the reasons stated in the application, the same is allowed and the main case is taken up today for hearing.

CRM-M-1098-2020 (O&M)

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement within a period of 30 days from today.

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

1. Number of persons arrayed as accused in FIR;
2. Whether any accused is proclaimed offender; and
3. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.
4. Whether the accused persons are involved in any other FIR 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.

List again on 12.01.2022. ”

Pursuant to the aforesaid order, report from JMIC, Moonak, District Sangrur dated 27.01.2020 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. As per the statement of IO, there are five

accused namely Rishab Goyal son of Ashok Kumar, Ritik Goyal son of Jiwan Kumar, Sugam Goyal son of Ashok Kumar, Jiwan Kumar son of Om Parkash and Om Parkash son of Chiranji Lal, all residents of Lehragaga, District Sangrur in the present FIR.

2. As per the present Investigating Officer, no person in proclaimed offender in this case.

3. As per the statements of parties, the compromise appears to be genuine, entered into voluntarily and without any coercion and undue influence.

4. As per the statement of IO no FIR against these five accused has been lodged except the present FIR.

5. As per the statement of present Investigating Officer ASI Gamdoor Singh 2198/Sgr, there is one complainant namely Kunal Kalra SDO of City Lehragaga, posted at Lehragaga and there is only one victim namely Harjinder Singh Cashier of Electricity Board, City Lehragaga.”

Ms. Shweta Sharma, Advocate for Mr. Gangandeep Singh, Advocate appears for respondents No.2 and 3 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioner are quashed.

Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

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.

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.

Consequently, the petition is allowed. FIR No.273 dated 01.11.2019, registered for the offences punishable under Sections 186, 353, 323, 506, 427 and 34 IPC at Police Station Lehragaga, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

16.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No