

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4158-2021

Date of decision : 17.10.2022

Manish Kumar and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Subhash Chander, Advocate for
Mr. P.R. Yadav, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.359 dated 16.09.2018, registered for the offence punishable under Sections 323, 341, 452, 506 and 34 of IPC (Section 452 of IPC added later on) at Police Station New Colony Gurugram, District Gurugram, on the basis of compromise deed dated 31.01.2020 (Annexure P-2).

2. Reply by way of affidavit of Ashok Kumar, HPS, Assistant Commissioner of Police, Old, Gurugram on behalf of respondent No.1-State has been filed. The same is taken on record.

3. On 15.02.2021, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

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For the reasons mentioned in the application, the

same is allowed and applicants-petitioners are exempted from filing the certified copies/typed copies of Annexures P-1 to P-6 and the same are taken on record.

CRM-M-4158-2021

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.359 dated 16.09.2018 registered under Sections 323, 341, 452, 506 and 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station New Colony Gurugram, District Gurugram to which Section 452 was added later on and all subsequent proceedings arising therefrom on the basis of compromise dated 31.01.2020 effected between the parties.

Notice of Motion.

Pursuant to supply of advance copy of the petition, Mr.Ranvir Singh Arya, Addl. A.G. Haryana has appeared and accepted notice on behalf of respondents No.1-State.

Mr. Prithvi Raj, Advocate has appeared on behalf of respondent No.2 and he undertakes to file his power of attorney in the Registry.

Respondent No.2-Shilpa, who has appeared before this Court through WhatsApp video call, admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 25.02.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing-20.04.2021 containing the following information :-

1. Number of persons arrayed as accused in FIR.
2. Whether any accused is proclaimed offender.
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.
4. Whether the accused persons are involved in any other case or not.
5. Current stage of the case.

The trial Court/Illaqa Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaqa Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State be filed on the date of hearing fixed, if so desired.”

4. Pursuant to the aforesaid order, report from JMIC, Gurugram dated 26.03.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

“As per the order of the Hon'ble High Court dated 15.02.2021 in the case titled "Manish Sharma & Ors Vs. State of Haryana and Another passed in CRM-2282-2021 in/and CRM-M-4158-2020, the parties were directed to appear before the Trial Court/Duty Magistrate on 25.02.2021 for getting their statements recorded with regard to the compromise arrived at between them. Today, both the parties and 1.0. have appeared before this Court being Trial Court. In compliance of the Order dated 15.02.2021 passed by

the Hon'ble High Court in letter and spirit and in the interest of justice let the statement of the parties be recorded.

(II) The complainant Smt. Shilpa and the five accused persons namely Manish Sharma, Ram Lal, Smt. Mohan Devi, Prem Chand and Bonish Kumar have clearly stated that they have entered into the compromise voluntarily and without any pressure and coercion in any manner. Both parties have also accepted the genuineness of compromise, which was arrived in voluntarily and with out any pressure. The parties were duly identified by their counsels.

(III) As per the statements of concerned Chowki Incharge (recorded on 25.02.2021 and also of I.O. ASI Shailender Kumar (recorded on 02.03.2021), the present case FIR has been registered at the instance of one complainant namely Smt. Shilpa and against five accused namely Manish Sharma, Ram Lal, Smt. Mohan Devi, Prem Chand and Bonish Kumar. None of the accused have been declared proclaimed person/offender in this case at any point of time.

(IV) After going through the statements of complainant and all five accused, this Court is of the considered view that the compromise between the parties has been reached voluntarily and the same is genuine and without any coercion, pressure or undue influence in any manner. The parties have also made their respective statements voluntarily with regard to their compromise, which has been reached without any threat. inducement, pressure, coercion or undue influence in any manner and said compromise is genuine.”

5. Counsel for the petitioners submits that respondent No.2 is the wife of petitioner No.1-Manish Kumar. The parties have reconciled

their differences and shall now living together.

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

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

8. 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.

9. 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.

10. Consequently, the petition is allowed. FIR No.359 dated 16.09.2018, registered for the offence punishable under Sections 323, 341, 452, 506 and 34 of IPC (Section 452 of IPC added later on) at Police Station New Colony Gurugram, District Gurugram and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

17.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No