

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4033-2022

Date of decision : 15.11.2022

Hardeep Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Jitender Singh Dadwal, Advocate
for the petitioners.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

Mr. Sanjeev Kumar, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0096 dated 03.07.2013, registered for the offences punishable under Sections 326, 323, 148, 149 and 427 of IPC, at Police Station Sadar Ludhiana, District Ludhiana on the basis of compromise deed dated 21.01.2022 (Annexure P-2).

2. On 11.02.2022, the following order was passed:-

“Present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 0096 dated 03.07.2013 under Sections 326, 323, 148, 149 and 427 IPC, registered at Police Station Sadar Ludhiana, District Ludhiana and subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

Mr. Arun Kaundal, DAG, Punjab and Mr. Vishnu Dutt, Advocate accepts notice on behalf of respondent No.1 and 2, 3 respectively.

Parties may appear before concerned Illaqa Magistrate/trial Court on 10.03.2022 or on any other date convenient to the said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the trial Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report:

i) regarding genuineness and voluntary nature of the compromise;

ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

iii) whether any other proceeding is pending against the accused/petitioners.

Adjourned to 30.05.2022.”

3. Pursuant to the aforesaid order, report from JMIC, Ludhiana dated 17.03.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

In compliance to the aforesaid order dated 11.02.2012 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted in that FIR No. 96 dated 3.07.2013 u/s 326, 323, 148, 147 and 427 IPC, five accused namely Kulwinder Singh, Sukhninder Singh, Davinderjit Singh, Jasvir Singh and Gurpreet Singh were arrayed as accused persons, and Accused Hardeep Singh arrayed as accused in police report submitted under section 173 Cr.PC on 20-9-2013 and all the aforementioned accused persons have joined in the compromise. It is further submitted that in view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between the parties seems to be genuine one, which is not the

result of any pressure or coercion. It is further submitted that as per record, all the accused persons in the present case are on bail. Moreover, as per report submitted by SHO, P.S. Sadar, Ludhiana, none of the accused has been declared as proclaimed offender/person in this case or in any other case nor any other proceedings apart from the present FIR are pending against the accused persons.”

4. Mr. Sanjeev Kumar, Advocate appears for respondents No.2 & 3 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 petitioners are quashed.

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

6. I have heard learned 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.0096 dated 03.07.2013, registered for the offences punishable under Sections 326, 323, 148, 149 and 427 of IPC, at Police Station Sadar Ludhiana, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.11.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No