

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4390-2022

Date of decision : 17.10.2022

Pala and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sube S. Kaushik, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Virender Kumar, Advocate for
Mr. Mandeep Singh Janggu, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.88 dated 27.04.2014, registered for the offence punishable under Sections 323, 324, 326, 341, 506 and 34 of IPC at Police Station Alewa, District Jind, on the basis of compromise dated 01.09.2021 (Annexure P-4).

2. On 03.02.2022, the following order was passed:-

“1. The learned counsel for the petitioners submits that in FIR No. 88 of 27.4.2014, registered at Police Station Alewa, District Jind, the petitioners were convicted, and, sentenced by the learned Judicial Magistrate Ist Class, Jind, vide judgement/order dated 14.2.2019/15.2.2019. Appeal preferred by the petitioners, against their conviction and sentence, is pending. In the meanwhile, the matter has been amicably settled between the parties.

2. Notice of motion.

3. Mr. Pardeep Prakash Chahar, DAG, Haryana, waives service on behalf of respondent No. 1.
4. Mr. Mandeep Singh Jangu, Advocate puts his appearance on behalf of respondents No. 2 and 3.
5. Before proceeding to quash the FIR (supra), it is deemed appropriate to make directions upon the Appellate Court concerned to, after summoning the petitioners, and, respondents No. 2 and 3, and, after its recording their respective testifications, with respect to the voluntariness, and also, with respect to the authenticity of the compromise drawn amongst them, as embodied in Annexure P-4, to make a report with respect to the compromise (supra).
6. The learned Appellate Court is also directed to disclose in its report, (a) number of persons arrayed as accused in FIR; (b) whether any accused is proclaimed offender; and (c) whether all the concerned have signed the compromise deed.
7. The afore made report be ensured to be transmitted to this Court within three weeks.
8. For the afore purpose, list on 18.5.2022.”

3. Pursuant to the aforesaid order, report from Sessions Judge, Jind dated 21.02.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

From the statement of complainant Mahender (PW1), injured Om Parkash (PW2) and eyewitness Rajinder (PW3), it appears that they have amicably settled the dispute with the accused party without any pressure, coercion or misrepresentation and out of their own free will.

Certified copies of statements of complainant Mahender (annexure-A), injured Om Parkash (annexure-A1), eyewitness Rajinder (annexure-A2),

joint statement of accused Pala, Sandeep and Kuldeep (annexure-B), statement of Investigating Officer ASI Parveen Kumar (annexure-C) are enclosed herewith.

From the statement of I.O. and the documents on the case file, it emerges that:

- (i) Five persons were initially arrayed as accused, including juvenile in conflict with law, who has since been released on probation of good conduct vide judgment order dated 09.06.2015/10.06.2015 passed by Principal Magistrate. Juvenile Justice Board, Jind. One of the accused namely Shamsher died during pendency of trial.
- (ii) None of the accused-appellants were ever declared as proclaimed offender.
- (iii) Copy of compromise deed annexure-1, when perused goes to show that it bears signatures of all the three appellants namely Pala (A1), Sandeep (A2) and Kuldeep (A3), as also complainant-injured (Mahender), another injured (Om Parkash) and an eyewitness to the incident (Rajinder)."

4. Mr. Virender Kumar, Advocate for Mr. Mandeep Singh Janggu, Advocate appears for respondents No.2 and 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.88 dated 27.04.2014, registered for the offence punishable under Sections 323, 324, 326, 341, 506 and 34 of IPC at Police Station Alewa, District Jind 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