

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

CRM-M-5094-2022

Date of decision : 27.10.2022

Meenakshi

....Petitioner

Versus

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Saleem Ahmed, Advocate
 for the petitioner.

Mr. Viney Phogat, Dy. Advocate General, Haryana
for respondent No.1-State.

Mr. Ashir Gulati, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.233, dated 22.05.2019 registered for the offences punishable under Section 328/307 of the IPC, at Police Station Pataudi, District Gurugram (Annexure P-1) on the basis of compromise.

2. On 08.02.2022, the following order was passed :-

“This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is filed under Section 482 Cr.P.C. for quashing of FIR No.233 dated 22.05.2019 (Annexure P-1), registered under Sections 328/307 of IPC at Police Station Pataudi, District Gurugram, Haryana and all the consequential proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel appearing on behalf of the petitioner inter alia contends that the parties have amicably resolved their dispute during the pendency of the appeal. Learned counsel has reliance upon the judgment of this Court in case of ***Kulwinder Singh & Others Vs. State of Punjab and Another, 2007(4) Criminal Court Cases 153***, to contend that the FIR can be quashed on the basis of compromise.

Notice of motion.

At this stage, Mr. Kanwar Sanjiv Kumar, AAG, Haryana appears and accepts notice on behalf of respondents No.1-State.

Ms. Vandana Sharma, Advocate, appearing on behalf of respondent No.2-complainant admits the execution of compromise dated 19.10.2021 (Annexure P-2) and undertakes to file her power of attorney in the Registry.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 25.02.2022.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;
- (ii) Whether any accused is proclaimed offender;
- (iii) The stage of trial/proceedings;
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 24.03.2022 for further consideration.

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

3. Pursuant to the aforesaid order, report from Additional Sessions

Judge, Gurugram dated 02.03.2022 has been received, which is taken on

record. As per the report, the Trial Court has recorded as follows:-

““Hence, the report is submitted as under:-

- (i) There is only one accused in this case.
- (ii) The said accused Meenakshi is not a proclaimed offender.
- (iii) The matter is at the stage of recording evidence of the prosecution as charges against the accused were framed on 09.08.2021. However, no witness has been examined in this case till date.
- (iv) As per the statements made by complainant Kanta and of accused Meenakshi, the compromise seems to have been entered into between the parties voluntarily without any force, pressure, undue influence or coercion from any side and is genuine.”

4. Ld. Counsel appearing for respondent No.2 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 is 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. It is a case which definitely falls within the exceptions as carved out in Laxmi Narayan's case (supra). However, in terms of the law laid down in Narinder Singh's case (supra) this Court is well within its jurisdiction to analyze the case alleged against the petitioner attracting offence punishable under Section 307 IPC. Charges already stand framed.

The allegations against the petitioner are as under :-

“Statement of Kanta w/o Braham Parkash, Caste Brahmin, Village -Pahri, Police station- Pataudi, Distt.- Gurugram, aged 50 years, Mobile no.9813113583 that I am the resident of above mentioned address and I am a housewife. I have two children, one son and a daughter. Name of my son is Jitender kumar. We solemnized our son's marriage with Meenakshi D/o Roshanlal resident of Vill-Kosli, District - Rewari according to Hindu rituals in year 2007. My daughter in law Meenakshi having two daughters and a son. Just after few days of marriage Meenakshi keep fighting with me on petty issues. On 21.05.2019 at about 8.00 P.M my daughter in law Meenakshi gave me meal and just after having that meal I felt dizziness and felt being restless and feeling sick then my husband Braham Parkash admitted me in CHC. That my daughter in law namely Meenakshi has given poisonous substance with intention to kill me..”

9. As per the FSL report placed on file “aluminium phosphide”

was detected. It is on the basis of aforesaid forensic evidence that the petitioner has been charged for offence punishable under Section 307 IPC. This Court cannot ignore the fact that the dispute is between the family members. Mother-in-law has accused her daughter-in-law of attempt to kill her. Admittedly, there is a long matrimonial discord going-on between the son of the complainant and his wife-accused/petitioner. The settlement has been arrived at between the parties which would promote harmony between them and may result in improving their future relationship. Though the poison is reported to have been found as per the Forensic Report, yet the allegation as to how the same was administered to the complainant is missing. The allegation that the aluminium phosphide was administered in the meals is hard to be believed owing to pungent smell and inflammable nature of aluminium phosphide. Once the complainant has suffered a statement in support of the compromise and has supported the plea of settlement the chances of conviction cannot be said to be more than remote. Thus, in view of the aforesaid facts and circumstances as the parties herein are closely related and the future of the family largely depends upon harmonious habitation between them, it will be in the interest of justice that the present petition on the basis of compromise is accepted. As per the report received the compromise is said to be voluntary and complainant has stated that she has entered the same on her own volition.

9. Consequently, the petition is allowed. FIR No.233, dated

22.05.2019 registered for the offences punishable under Section 328/307 of the IPC, at Police Station Pataudi, District Gurugram (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 27, 2022

(PANKAJ JAIN)
JUDGE

Dpr

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No