

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

CRM-M-6750-2022

Date of decision : 12.12.2022

Hardeep Singh and another

....Petitioners

Versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sandeep Arora, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, Asstt. Advocate General, Punjab
for respondents No.1.

Mr. Gautam Goyal, Advocate for
Mr. Deepak Jindal, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.315, dated 16.11.2018 registered for the offences punishable under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860, at Police Station Dera Bassi, District SAS Nagar, Mohali, (Annexure P-1) on the basis of compromise.

2. Respondents No.2 to 4 are stated to be the LRs of Balwinder Kaur on whose complaint present FIR was lodged.

3. On 6th of July, 2022, the following order was passed :-

“This is a petition under Section 482 Cr.P.C. for quashing

of FIR No. 315 dated 16.11.2018 under Sections 420, 465, 467, 468, 471, 120-B IPC, 1860 registered at Police Station Dera Bassi, SAS Nagar, Mohali and all other subsequent proceedings arising therefrom on the basis of compromise.

The parties are directed to appear before the Illaqa Magistrate/trial court for recording their statements with regard to the compromise on 15.7.2022.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

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

List on 29th July, 2022. ”

4. Pursuant to the aforesaid order, report from SDJM, Dera Bassi dated 26.07.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“From the above statements, got recorded by the parties, and copy of compromise, placed on record, this Court is of the considered opinion :-

- (I) That there are four accused arrayed in the present FIR, namely Hardeep Singh, Jit Singh, Sandeep Kumar and Geeta.
- (II) That none of the accused have been declared proclaimed offender.
- (III) That the compromise effected between the parties i.e. Complainants Pritam Singh, Inderjit Kaur, Kawaldeep Singh and two of the accused Hardeep Singh and Jit Singh are genuine, valid and voluntary without any coercion or any kind of influence from any sphere.”

5. The aforesaid report reveals that there are four accused persons namely Hardeep Singh, Jit Singh, Sandeep Kumar and Geeta. However, the compromise has only been effected with accused(s)-petitioners namely Hardeep Singh and Jit Singh.

6. Ld. Counsel appearing for respondents No.2 to 4 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.

7. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

8. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

9. 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.

10. 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.

11. On the question as to whether the partial quashing will be maintainable, Ld. Counsel for the petitioners submits that so far as accused (s) namely Sandeep Kumar and Geeta are concerned they have not even applied for a pre-arrest bail and in fact they have no concern with the property in question. At the same time, he submits that such prayer will be maintainable in view of law laid down by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is

made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.315, dated 16.11.2018 registered for the offences punishable under Sections 420, 465, 467, 468, 471, 120-B of the IPC, at Police Station Dera Bassi, District SAS Nagar, Mohali (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

December 12, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No