

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6643-2021

Date of decision : 12.12.2022

Sarbar Khan and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Barjinder Singh, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, AAG, Punjab.

Ms. Prabhjot Kaur, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0126 dated 11.06.2020, registered for offences punishable under Sections 341, 323, 506, 148 and 149 of IPC at Police Station Sangrur, District Sangrur on the basis of panchayati compromise (Annexure P-2).

2. On 12.02.2021, the following order was passed:-

“By filing this petition, quashing of FIR No.0126 dated 11.06.2020 under Sections 341, 323, 506, 148 and 149 of Indian Penal Code, 1860 registered at Police Station Sadar Sangrur, District Sangrur and all other consequent proceedings arising therefrom has been sought on the basis of compromise.

Notice of motion.

Mr. Aditya Sharda, AAG, Punjab, accepts notice on behalf of respondent No.1-State.

Parties may appear before concerned trial Court/Illaqa Magistrate/Duty Magistrate on 17.03.2021 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 said 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 his 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 29.04.2021.”

3. Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Sangrur dated 18.03.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

After evaluating the statements of the parties, report on the enumerated aspects is submitted as under:

- i) regarding genuineness and voluntary nature of compromise

Through their statements, the parties stated that in unison that they had voluntarily entered into a compromise and that they were making statement in the Court voluntarily, free from any duress or inducement. Original written compromise (Panchayati Rajinama) dated 19/1/2021, annexure A, was also produced upon record by the parties.

The same ran into three leaves. The petitioners as well as respondents identified their signatures/thumb impressions upon the same. The petitioners and respondents also owned up the terms of the same and submitted unanimously that the compromise had been voluntarily executed by them.

From the statements of the parties, it is concluded that the compromise so effected between the parties is genuine and voluntary in nature.

ii) Whether all the accused/petitioners are appearing before the Court or are on bail.

On this count, it was clarified by the investigating officer in his statement that police report(challan) had not been filed in the Court yet.

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

The petitioners in their composite statement had stated that apart from the present proceedings, no other proceeding against them was pending. Even the investigating officer stated in his statement that according to his knowledge apart from the present proceedings, no other proceeding against the accused/petitioners is pending.

However, the investigating officer also informed that stemming from the same occurrence, DDR no 46 dated 11/6/2020 under Sections 341,323,506 read with Section 34 of IPC, Police Station Sadar, Sangrur, had been registered as a cross version at the instance of accused/petitioners Sarbar Khan son of Sadhu Khan(petitioner no.1) against Karamjeet Singh son of Dalip Singh(respondent no.1), Gurtej Singh son of Dalip Singh(respondent no.2) and Dharampal Singh son of Dalip Singh(not a party in the petition), all residents of village Khurana, Sangrur.”

4. Ms. Prabhjot Kaur, Advocate appears for respondents No.2 & 3 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

5. 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.0126 dated 11.06.2020, registered for offences punishable under Sections 341, 323, 506, 148 and 149 of IPC at Police Station Sangrur, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

12.12.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No