

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5119-2020

Date of decision : 19.09.2022

Gurdev Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Raman Kumar, Advocate for
Mr. Rajiv K. Kapila, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Pankaj Khurana, Advocate for
Ms. Suresha Rani, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0174 dated 14.11.2018, registered for the offences punishable under Sections 323, 325, 452 and 34 IPC at Police Station Dasuya, District Hoshiarpur, on the basis of compromise (Annexure P-3).

2. Counsel for the parties are *ad idem* that no dangerous weapon was used and the FIR was registered for offences punishable under Sections 323, 325, 452 and 34 IPC whereas cross version was registered for offence punishable under Section 323 IPC.

3. It has been contended that the matter would not fall within the exceptions as carved out by the Apex Court in **State of Madhya**

Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688.

4. On 05.02.2020, the following order was passed:-

“This is a petition for quashing of F.I.R. on the basis of compromise. It is stated that the case is at the stage of investigation. It is further stated that both the matters relating to the F.I.R. and cross version contained in DDR have been settled.

Notice of motion.

At this stage Ms. Suresha Rani, Advocate has filed vakalatnama for respondents No. 2 and 3. The same is taken on record. She admits the factum of compromise.

It is stated that both the parties belong to the same village. They are directed to appear before the trial Magistrate/Ilaqa Magistrate at Dasuya, District Hoshiarpur within one month from today, so as to get their statements recorded regarding compromise. The trial Magistrate/Ilaqa Magistrate is to report whether the compromise has been entered into voluntarily, without any threat or coercion and the same is genuine. It be also intimated whether any of the parties has been declared proclaimed offender. Report in that regard be sent to this Court by the next date of hearing.

Adjourned to 23.4.2020. ”

5. Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Dasuya dated 09.03.2020 has been received, which is taken on record. As per the report, the compromised effected between the parties are voluntarily and without any pressure and coercion.

6. Mr. Pankaj Khurana, Advocate for Ms. Suresha Rani, 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 petitioner are quashed.

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

8. I have heard learned 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. Consequently, the petition is allowed. FIR No.0174 dated 14.11.2018, registered for the offences punishable under Sections 323, 325, 452 and 34 IPC at Police Station Dasuya, District Hoshiarpur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

19.09.2022

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Whether speaking/reasoned Yes

Whether Reportable : No