

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8036-2022 (O&M)
Date of decision : 19.09.2022

Sunny and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kuldeep Singh, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.225 dated 30.03.2021, registered for the offences punishable under Sections 148, 149, 307, 323, 452, 506 of IPC (Section 307 IPC deleted later on) at Police Station Yamuna Nagar City, District Yamuna Nagar, on the basis of compromise dated 12.04.2021 (Annexure P-2).

2. Counsel for the State does not dispute the fact that Section 307 under which the petitioner was earlier booked now stands deleted during the course of investigation as the injuries caused on the body of victims were not found to be dangerous to life.

3. On 24.02.2022, the following order was passed:-

“The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.225 dated 30.03.2021 under Sections 148, 149, 307, 323, 452 and 506 IPC registered at Police Station Yamuna Nagar City (Annexure P-1) and all consequential proceedings

arising therefrom on the basis of compromise dated 12.04.2021 effected between the parties.

Notice of motion.

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

Mr. Kiran Pal, Advocate, appearing on behalf of respondent No.2-complainant admits the execution of compromise dated 12.04.2021 (Annexure P-2) and filed his power of attorney in the Court today.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 02.03.2022.

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 30.03.2022 for further consideration.

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

5. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Yamuna Nagar dated 17.03.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

In these circumstances, it is concluded that the statements of the complainant, injured persons and accused persons are bona fide and are not result of any

threat, duress or coercion in any manner and hence compromise effected between complainant and accused is voluntarily without any threat or coercion and is valid one.”

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. 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.

10. Consequently, the petition is allowed. FIR No.225 dated 30.03.2021, registered for the offences punishable under Sections 148, 149, 307, 323, 452, 506 of IPC (Section 307 deleted later on) at Police Station Yamuna Nagar City, District Yamuna Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

11. Since the main case has been decided, all pending miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

19.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No