

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8776-2021

Date of decision : 16.09.2022

Parbodh Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Madhur Sharma, AAG, Punjab.

Mr. Kuldeep Kumar Sarthi, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.8 dated 10.02.2021, registered for the offences punishable under Sections 452, 323, 427, 148 and 149 IPC at Police Station Taragarh, District Pathankot, on basis of compromise/affidavit dated 17.02.2021 (Annexure P-2).

On 24.02.2021, the following order was passed:-

“The Court has been convened through video conferencing due to Covid-19 Pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.8 dated 10.02.2021 under Sections 452, 323, 427, 148 and 149 of the Indian Penal Code, 1860, registered at Police Station Taragarh, District Pathankot (Annexure P-1) and all consequential proceedings qua the petitioners on the basis of affidavit/compromise dated 17.02.2021 (Annexure P-2).

Counsel for the petitioners submits that impugned FIR is an outcome of the property dispute between the parties. He has referred to the para 8 of the petition and submitted that none of the accused-petitioners have been declared as proclaimed offenders.

Notice of motion.

On asking of the Court, Mr. Saurav Khurana, DAG, Punjab accepts notice on behalf of State-respondent No.1 and Mr. Kuldeep Kumar, Advocate accepts notice on behalf of respondents No.2 and 3. He has admitted the factum of compromise effected between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 09.03.2021 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing.

The report be forwarded to this Court specifying the following:-

1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. In the case;
2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;
3. the stage of trial/proceedings;
4. if the compromise is genuine, voluntary and out of free will of the parties;
5. Whether any other criminal case is pending against the accused.

Report of the Illaqa Magistrate/trial Court be awaited for 19.07.2021.”

Pursuant to the aforesaid order, report from JMIC, Pathankot dated 26.03.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. Four accused persons arrayed in the present FIR. All four accused are present and suffered their statements respectively. No accused is declared proclaimed person in this case.
2. The name of complainant is Rimpay and other victims/injured are namely Bimla Devi and Bodh Raj. All injuries received are simple in nature. Complainant and injured are present and suffered their separate statement respectively.
3. In the present FIR the case is at investigation stage. Challan is not presented yet.
4. Parties have effected compromise with each other voluntarily and without any pressure or coercion.
5. As per the statement of SI Sarabjit Singh No.1278/Pathankot recorded separately and statements of accused persons, no other criminal case is registered or pending against all the accused.”

Mr. Kuldeep Kumar Sarthi, Advocate appears for respondents No.2 and 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.

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

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

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.

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.

Consequently, the petition is allowed. FIR No.8 dated 10.02.2021, registered for the offences punishable under Sections 452, 323, 427, 148 and 149 IPC at Police Station Taragarh, District Pathankot and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

16.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No