

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7696-2019

Date of decision : 30.11.2022

Prabhjeet Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. L.S. Lakhanpal, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. B.S. Jatana, Advocate for
Ms. Amandeep Sibia, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.261 dated 11.11.2018, registered for offences punishable under Sections 406 and 420 of IPC and Section 24 of Immigration Act, 1983 and Section 13 of Travel Professional Regulation Act, 2014 at Police Station Rama Mandi, Jalandhar on the basis of compromise deed dated 11.02.2019 (Annexure P-2).

2. On 20.02.2019, the following order was passed:-

“Contentends that the matter has been compromised between the parties.

Notice of motion.

Ms. Amandeep Sibia, Advocate appears on behalf of respondent no.2 and files memo of appearance, same is taken on record. She undertakes to file vakalatnama in the registry.

On the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of respondent

no.1. Copy of the petition supplied to him.

Learned Counsel for the petitioners as well as respondent No.2 jointly stated that the matter has been compromised between the parties.

In view of above, let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 12.03.2019 to get their statements recorded with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court is requested to record the statements of all accused, complainant/affected persons, if any and submit a report along with the recorded statements to this Court before the next date of hearing containing the following information:-

(i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and affected persons are party to the compromise and if not, the details/particulars of such person(s).

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof.

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender

(vi) Whether any of the petitioner(s) is/are previous convict or not?.

List before this Court on 28.03.2019 for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.”

3. Pursuant to the aforesaid order, report dated 15.03.2019 from JMIC, Jalandhar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

From the statements of both the parties, it seems that compromise effected between them is genuine one and is voluntarily without any pressure, out of free will, duress or any undue influence. In the said case, the above said complainant and accused persons are arrayed and no other accused persons in this present case. In the present case, no accused has been declared as Proclaimed Offender.”

4. Mr. B.S. Jatana, Advocate for Ms. Amandeep Sibia, Advocate appears for respondent No.2 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 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.261 dated 11.11.2018, registered for offences punishable under Sections 406 and 420 of IPC and Section 24 of Immigration Act, 1983 and Section 13 of Travel Professional Regulation Act, 2014 at Police Station Rama Mandi, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

30.11.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No