

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10335-2021

Date of decision : 12.10.2022

Charan Dass

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ravi Chadda, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Inderpal Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.125 dated 23.11.2019, registered for the offence punishable under Sections 406 and 421 of IPC, Section 13 of Punjab Travel Professionals and Section 24 of Immigration Act, at Police Station Sadar Nawashahar, District SBS Nagar, on the basis of compromise dated 26.02.2021 (Annexure P-2).

2. On 08.04.2021, the following order was passed:-

“This petition has been filed seeking quashing on the basis of a compromise arrived at between the petitioner and respondent No.2 of FIR No.125, dated 23.11.2019 (as also all other subsequent proceedings arising therefrom), registered at Police Station Nawanshahr, District SBS Nagar, for the alleged commission of offences punishable under the provisions of Sections 406 and 420 of the IPC and Section 13 of the Punjab Travel Professionals and

Section 24 of the Immigration Act, 1983. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Pursuant to the order of this Court dated 05.03.2021, the report of the learned JMIC, Shaheed Bhagat Singh Nagar, dated 15.03.2021, has been received, stating to the effect that respondent No.2, i.e. the complainant in the FIR, Jaskaran Singh, appeared before that court and stated that the matter has now been compromised between the parties and that he has no objection if the accused persons are 'acquitted from the charges leveled against them' and that he does not want to proceed with the present case.

Learned State counsel has filed short reply by way of an affidavit of the Deputy Superintendent of Police, Sub-Division, Nawanshahr, on behalf of the respondent No.1, which is taken on record; stating therein that there is one more FIR of similar nature registered against the petitioner.

It is also stated in the affidavit that other than the petitioner, Charan Dass, there is also one other accused in the said FIR i.e. Pavan Kumar.

Learned counsel for the petitioner wishes to address the arguments as to how the FIR can be quashed on the basis of a compromise reached, in a piecemeal manner.

Adjourned to 28.07.2021.”

3. Pursuant to the aforesaid order, report from JMIC, SBS Nagar dated 15.03.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

Therefore, in view of the above-mentioned statements so recorded, the compromise so effected between the

parties is genuine and is effected voluntarily with the free will of the parties. The parties have been identified by their respective counsels.”

4. Mr. Inderpal Singh, 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 petitioner are quashed.

5. Similarly 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.125 dated 23.11.2019, registered for the offence punishable under Sections 406 and 421 of IPC, Section 13 of Punjab Travel Professionals and Section 24 of Immigration Act, at Police Station Sadar Nawashahar, District SBS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

12.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No