

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11084-2022

Date of decision : 27.09.2022

Vijay Kumar Jindal

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. H.S. Deol, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Arshdeep Singh Brar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.176 dated 27.05.2020, registered for the offence punishable under Sections 406 and 420 of the IPC at Police Station Dera Bassi, District SAS Nagar on the basis of compromise dated 08.02.2022 (Annexure P-3).

2. On 15.03.2022, the following order was passed:-

- “1. Notice of motion.
2. Ms. Bhavna Gupta, DAG, Punjab waives service of notice on behalf of respondent No. 1-State.
3. Mr. Arshdeep Singh Brar, Advocate puts his appearance on behalf of respondent No. 2, and, waives service of notice on behalf of respondent No.2, and, files his Power of Attorney in the Court today.
4. Before proceeding to quash FIR No.176 dated 27.05.2020, at Police Station Dera Bassi, District SAS Nagar, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after

summoning the petitioner, and, respondent No.2, and, after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the authenticity of the compromise drawn amongst them, as embodied in Annexure P-3, to make a report with respect to the compromise (supra).

5. The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; and (c) whether the prosecution evidence has commenced; (d) whether the compromise drawn amongst the parties concerned, covers all the concerned, in the penal transaction concerned.

6. The afore made report be ensured to be transmitted to this Court within three weeks.

7. For the afore purpose, list on 19.07.2022.”

3. Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Dera Bassi dated 18.07.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

(a) As per record and statement of the Investigating Officer, the report under Section 173 Cr.P.C. has not been filed till today in the court as the matter is under investigation.

(b) Charges have not been framed against the accused in the present case as yet.

(c) Prosecution evidence has not commenced in the present case.

(d) As per the statement of the parties, the complainant had received the full and final payment from the accused person and now nothing is due towards the accused.”

4. Mr. Arshdeep Singh Brar, 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.176 dated 27.05.2020, registered for the offence punishable under Sections 406 and 420 of the IPC at Police Station Dera Bassi, District SAS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

27.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No