

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-10636-2020

Date of decision : 12.10.2022

Gurmakh Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Balraj Singh Sidhu, Advocate  
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Hargun Sandhu, Advocate for  
Mr. Gurmeet Singh Sekhon, Advocate  
for respondents No.2 to 4.

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**PANKAJ JAIN, J. (Oral)**

By way of present petition, the petitioners are seeking quashing of FIR No.105 dated 25.05.2006, registered for the offence punishable under Sections 323, 324, 447, 427, 148 and 149 of IPC (Section 326 of IPC added later on) and Sections 25, 54 and 59 of Arms Act at Police Station Dharamkot, District Moga and quashing of judgment and order dated 20.01.2016 passed by JMIC, Moga, on the basis of compromise deed dated 06.03.2018 (Annexure P-3).

2. On 13.03.2020, the following order was passed:-

“Prayer in this petition is for quashing of FIR No.105 dated 25.05.2006 registered at Police Station Dharamkot, District Moga, under Sections 323, 324, 447, 427, 148, 149 of IPC (later on added 326 of IPC) and Sections 25, 54, 59 of Arms Act (Annexure P-1) and judgment and order dated 20.01.2016 (Annexure P-2) along with all consequential proceedings arising

therefrom, on the basis of compromise (Annexure P3).

Notice of motion for 29.05.2020.

At this stage, Mr. Gurmeet Singh Sekhon, Advocate accepts notice on behalf of respondents No.2 to 4 and has filed his Vakalatnama which is taken on record. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 17.04.2020 for getting 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 Illaqa Magistrate/trial Court be awaited for the date fixed.”

3. Pursuant to the aforesaid order, report from JMIC, Moga dated 17.09.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

In view of the statement recorded of the parties, this Court is of the view that compromise effected between complainant and accused party seems to be genuine, voluntary, and without any coercion or undue influence.”

4. Mr. Hargun Sandhu, Advocate for Mr. Gurmeet Singh Sekhon, Advocate appears for respondents No.2 to 4 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. 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 29<sup>th</sup> 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.105 dated 25.05.2006, registered for the offence punishable under Sections 323, 324, 447, 427, 148 and 149 of IPC (Section 326 of IPC added later on) and Sections 25, 54 and 59 of Arms Act at Police Station Dharamkot, District Moga and quashing of judgment and order dated 20.01.2016 passed by JMIC, Moga and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

**(PANKAJ JAIN)**  
**JUDGE**

**12.10.2022**

Dinesh

Whether speaking/reasoned                      Yes

Whether Reportable :                              No