

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12896-2021

Date of decision : 11.10.2022

Jaskaran and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. H.S. Sidhu, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Harpreet Singh Mann, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.55 dated 04.07.2020, registered for the offences punishable under Sections 323, 324, 379-B, 148 and 149 of the IPC, at Police Station Bandhi Kalan, District Moga, on the basis of compromise dated 02.11.2020 (Annexure P-3).

2. On 19.03.2021, the following order was passed:-

“This petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.55 dated 04.07.2020, under Sections 323, 324, 379-B, 148 and 149 of the IPC, registered at Police Station Badhni Kalan, District Moga (Annexure P-1), and all subsequent proceedings arising therefrom, on the basis of compromise.

[2]. Ld. Counsel for the petitioners refers to Compromise Deed and Affidavit (Annexures P-3 and P-4), and states that the matter has been amicably settled between the parties.

[3]. Notice of motion.

[4]. Mr. Ramandeep Sandhu, Senior Deputy Advocate General, Punjab, to accept notice on behalf of respondent No.1.

[5]. At this stage, Mr. Sukhveer Sra, Advocate has put in appearance on behalf of respondent No.2-complainant through Video Conferencing and admits the factum of compromise.

[6]. Let requisite number of copies of the Paper-book be supplied to both the Counsel.

[7]. In view of the matter, the parties shall appear before the Trial Court/Illaqa Magistrate on 27.04.2021, for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaqa Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

[8]. List on 20.07.2021 .”

3. Pursuant to the aforesaid order, report from SDJM, Nihal Singh Wala dated 27.04.2021 has been received, which is taken on record.

As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. There are six accused involved in the present matter namely (1) Jaskaran Singh, (2) Suman Singh alias Sumanpreet Singh, (3) Jagroop Singh alias Roopa, (4) Davinder Singh alias Tunda, (5) Navpreet Singh alias Navi and (6) Harjinder Kaur and challan has been presented against only

accused No.2 to 6 and accused No.1 Jaskaran Singh was declared innocent by the police.

2. One criminal case bearing FIR No.84/2019, under Sections 323,324,325,379 and 411 of IPC, Police Station Badhni Kalan, is pending against accused No.1 Jaskaran Singh, but none of the accused has been declared proclaimed offender.
3. Statements of complainant Jagdeep Singh and accused (1) Jaskaran Singh, (2) Suman Singh alias Sumanpreet Singh, (3) Jagroop Singh alias Roopa, (4) Davinder Singh alias Tunda, (5) Navpreet Singh alias Navi and (6) Harjinder Kaur have been recorded. The compromise between the parties is genuine, voluntarily and without pressure.”

4. Mr. Harpreet Singh Mann, 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. 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.55 dated 04.07.2020, registered for the offences punishable under Sections 323, 324, 379-B, 148 and 149 of the IPC, at Police Station Bandhi Kalan, District Moga and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

11.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No