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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11054-2020

Date of decision : 18.11.2022

SUCHA SINGH AND ANOTHER

....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. L.M. Gulati, Advocate
for the petitioners.

Mr. Sarabjit Singh Cheema, DAG, Punjab
for respondent No.1-State.

Mr. M.S. Kathuria, Advocate for
Ms. Poonam Thakur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.172, dated 04.11.2013 registered for the offences punishable under Sections 324/506/34 of IPC, subsequently added Section 326 IPC, at Police Station Kamboj, District Amritsar (Annexure P-1) on the basis of compromise.

2. On 07.09.2022, the following order was passed :-

“The petitioners herein were convicted for offences under Sections 324, 506, 326, 34 of IPC by the Court of learned JMIC, Amritsar. Thereafter, an appeal was filed by the petitioners before the Court of Sessions at Amritsar.

Learned counsel for the petitioners submits that during the

pendency of the said appeal, parties have amicably settled their disputes and have arrived at compromise, which is annexed with this petition as Annexure P-3.

Learned counsel representing private respondents No.2 & 3 also admits the factum of amicable settlement of disputes between the parties and execution of compromise (Annexure P-3).

Accordingly, the affected parties are directed to appear on 19.10.2022, before the learned Trial Court/Illaqa Magistrate, who shall record their respective statements with regard to the compromise and submit a detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. Total number of persons arrayed as accused in the case;
- ii. Whether all the accused and complainant / victims are party to compromise;
- iii. Whether any accused has been declared as a proclaimed offender or any such proceedings have been initiated or pending decision;
- iv. Stage of the trial/proceedings; and
- v. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 18.11.2022, awaiting report.

Reply by the respondent-State, if any, be filed on or before the next date of hearing. ”

3. Pursuant to the aforesaid order, report from JMIC, Amritsar dated 11.11.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“On 19.10.2022, statement of complainant Sucha singh son of Gulzar Singh and Manjit Kaur (injured) and accused Dilbagh Singh on submitting their identity proofs i.e. Adhar Cards and on identification of their counsel were recorded. The complainant and injured person stated that they have compromised with the accused without any pressue, threat or undue influence and also the accused Dilbagh Singh stated that

his co-accused Such Singh son of Swaran Singh has died and he has compromised with the complainant and injured person without any pressure, threat, duress, or influence.

IO/SI Desa Masih No.923/ASR has reported that there are only two accused namely Such Singh S/o Swaran Singh and Dilbagh Singh and one complainant Sucha Singh son of Gulzar Singh and one injured person namely Manjit Kaur arrayed in the present FIR No. 172 dated 04.11.2013, under Sections 324, 506, 326, 34, P.S. Kamboh, Amritsar who have never been declared proclaimed offender by any of the court till date as per record and said accused persons. All the accused and complainant/victim are party to the compromise. No any proceedings have been initiated or pending decision. The present accused are convicted vide judgment dated 13.02.2017 passed by the Court of Ms. Sumukhi, Ld. JMIC, Amritsar. ”

4. Ld. Counsel appearing for respondents No.2 and 3 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 Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.172, dated 04.11.2013 registered for the offences punishable under Sections 324/506/34 of IPC, subsequently added Section 326 IPC, at Police Station Kamboj, District Amritsar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

November 18, 2022

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No