

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15679-2021

Date of decision : 12.10.2022

Mohd. Dilshad and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Imran Farooqi, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Naveen Kumar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.167 dated 30.11.2020, registered for the offence punishable under Sections 323, 324 and 34 of IPC (Section 326 of IPC added later on) at Police Station City-I, Malerkotla, District Sangrur, on the basis of compromise/affidavit deed dated 26.03.2021 (Annexure P-2).

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

“By this petition, the petitioners seek quashing of FIR No.167, dated 30.11.2020, registered at Police Station City-I, Malerkotla, District Sangrur, alleging therein the commission of offences punishable under the provisions of Sections 323/324/34 of the IPC (with Section 326 of the IPC added later), as also all other subsequent proceedings arising therefrom, on the basis of a compromise (Annexure P-2), arrived at between the petitioners and respondent no.2.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent State.

A copy of the petition be supplied to him today itself by learned counsel for the petitioners.

Adjourned to 28.07.2021.

Respondent no.2 be served by way of normal process.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned Area Magistrate/trial Court (as the case may be) up to 27.05.2021 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners, of like nature or otherwise.

The reply shall also annex therewith the MLRs issued, showing the kind of injuries received by the victims and the opinion of the doctor thereon.”

3. Pursuant to the aforesaid order, report from SDJM, Malerkotla dated 12.05.2021 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 statement of complainant Mohd. Zeeshan alias Abdul Rehman and accused Mohd. Dilshad, Mohd. Anas, Mohd. Muneer and Seera alias Mohd. Shabir, it is apparent that the matter has been compromised between the parties. In light of their statements compromise between the parties is result of free violation of the parties and without any inducement, threat or pressure.”

4. Mr. Naveen Kumar, 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.167 dated 30.11.2020, registered for the offence punishable under Sections 323, 324 and 34 of IPC (Section 326 of IPC added later on) at Police Station City-I, Malerkotla, District Sangrur 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