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

CRM-M-14577-2022

Date of decision : 16.11.2022

Gurlal Singh and others

....Petitioners

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jagjeet Singh, Advocate for
Mr. Amit Arora, Advocate
for the petitioner.

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

Mr. Parminder Singh Kanwar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.91, dated 07.09.2019 registered for the offences punishable under Sections 307, 506, 148, 149 of the IPC and Sections 25, 27 of the Arms Act (offences under Sections 148, 149 IPC and Sections 25, 27 of the Arms Act, 1959 stand deleted and offences under Sections 201 & 34 IPC added later on) at Police Station Bhikhiwind, District Tarn Taran (Annexure P-1) on the basis of compromise.

2. Short reply by way of affidavit of Preetinder Singh, PPS,

Deputy Superintendent of Police, Sub Division Valtoha, Camp at Bhikhiwind, District Tarn Taran has been filed on behalf of respondent No.1 today in Court. The same is taken on record.

3. On 30.08.2022, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners facing trial in FIR No.91 dated 07.09.2019, registered for offences punishable under Sections 307, 506, 148, 149 IPC and Sections 25, 27 of the Arms Act (offences under Sections 148, 149 IPC and Sections 25, 27 of the Arms Act stands deleted and offences under Sections 201 & 34 IPC added later on), at Police Station Bhikhiwind, District Tarn Taran and all consequential proceedings arising there-from qua the petitioners in view of the compromise dated 12.03.2022 (Annexure P-3) arrived at between the parties.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 12.03.2022 (Annexure P-3).

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 01.09.2022. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many

victims/complainants are there in the FIR.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

To await report, adjourned to 16.11.2022.”

4. Pursuant to the aforesaid order, report from Additional District & Sessions Judge, Tarn Taran dated 03.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In compliance of the same, statements of petitioners as well as complainant were recorded. Statement of the IO namely ASI Lakhbir Singh was also recorded to the effect that there are no other case pending against the petitioners and in this case except FIR no.91 of 7.9.2019. There are only four accused in this case and no other case is pending against the petitioners and none of them is declared proclaimed offender. The compromise has been entered into between the parties and the same appears to be genuine voluntary and without any coercion and undue influence.”

5. Ld. Counsel appearing for respondents No.2 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.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. Though the present FIR has been registered for offence punishable under Section 307 IPC but this Court cannot loose sight of the fact that Section 307 has been added as the allegation against the petitioners was that they fired gunshots, which hit the window and the wall of the house of complainant. Thus, it is a case of no injury and the question w.r.t. intention to kill which is a *sine qua non* to constitute offence under Section 307, is highly debatable. Hence, in the considered opinion of this Court, once the parties, who are the co-villagers, have reconciled their differences and there is no serious allegation *viz-a-viz* offence punishable under Section 307 IPC it will be one of those cases where power under Section 482 Cr.P.C. should be exercised to uphold the peace between two parties who

have decided to bury their hatchet.

10. 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 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.
- (vii) It is a case of no injury.
- (viii) Investigation stands completed.

11. Consequently, the petition is allowed. FIR No.91, dated 07.09.2019 registered for the offences punishable under Sections 307, 506, 148, 149 of the IPC and Sections 25, 27 of the Arms Act (offences under Sections 148, 149 IPC and Sections 25, 27 of the Arms Act, 1959 stand deleted and offences under Sections 201 & 34 IPC added later on) at Police Station Bhikhiwind, District Tarn Taran (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

November 16, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No