

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12378-2019

Date of decision : 29.09.2022

Harpreet Singh and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Chetan Goyal, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Abhivadya Sood, Advocate for
Mr. Prince Goyal, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.180 dated 20.09.2018, registered for the offence punishable under Sections 323, 324, 506, 148 and 149 of IPC at Police Station City Samana, District Patiala, on the basis of affidavit/compromise.

2. Counsel for the respondent-State submits that four more co-accused were nominated during the course of investigation, who are habitual offenders and there are other FIRs against them.

3. On 18.03.2019, the following order was passed:-

“This petition has been filed for quashing of FIR No.180 dated 20.9.2018 on the basis of compromise (Annexure P-2).

Notice of motion.

Mr. Luvinder Sofat, AAG, Punjab, accepts notice on behalf of the State of Punjab. Let 02 copies

of the petition be supplied to him during the course of the day. Mr. Prince Goyal, Advocate, puts in appearance and accepts notice on behalf of respondents No.2 and 3.

The parties are directed to appear before the trial Court/Illaq Magistrate on 11.4.2019 for getting their statements recorded. After recording the statements of the parties, the learned trial Court/Illaq Magistrate shall send a report to this Court as regards genuineness of compromise well before the next date of hearing.

Adjourned to 13.8.2019.”

4. Pursuant to the aforesaid order, report from SDJM, Samana dated 20.05.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as under:-

“The perusal of FIR reveals that the present case has been got registered by Jashanpreet Singh against accused persons. From the statements of the parties, it appears to the Court that Jashanpreet Singh complainant have effected compromise with accused Harpreet Singh and Bhupinder Singh only and the compromise is without any pressure, coercion and same has been done with the free consent of the parties and compromise is genuine, voluntary and without any coercion or undue influence.”

5. Mr. Abhivadya Sood, Advocate for Mr. Prince Goyal, Advocate appears for respondents No.2 & 3 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.

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

7. I have heard learned 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. 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.

10. As per the compromise, the matter stands settled between Jashanpreet Singh-complainant with other accused. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

11. Consequently, the petition is allowed. FIR No.180 dated 20.09.2018, registered for the offence punishable under Sections 323, 324, 506, 148 and 149 of IPC at Police Station City Samana, District Patiala, on the basis of affidavit/compromise and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

29.09.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No