

239

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

**CRM-M-16517-2021
Date of decision : 14.12.2022**

Pawan

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Bhupender Singh, Advocate
for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana
for respondent No.1-State.

Mr. Shakti Singh, Advocate for
Mr. Parveen Sharma, Advocate
for the complainant/respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.216, dated 11.06.2020 registered for the offences punishable under Section 406 and 420 IPC and Section 24 of Emigration Act, 1983, at Police Station Pundri, District Kaithal (Annexure P-1) on the basis of compromise.

2. On 19.04.2021, the following order was passed :-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.216 dated 11.06.2020 registered under Sections 406 and 420 IPC, 1860 and Section 24 Emigration Act, 1983 at Police Station Pundri, District Kaithal (Annexure P-1).

Notice of motion for 05.08.2021.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of the respondent-State.

At this stage, Parveen Sharma, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on or before 27.05.2021 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

1. Number of persons arrayed as accused in 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 through fax to the Registrar Judicial of this Court. ”

3. Pursuant to the aforesaid order, report from ACJM, Kaithal, dated 28.07.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“As per specific directions in the orders of Hon'ble High Court, the necessary report as per points no. 1 to 5 is follows:

- 1. Number of persons arrayed as accused in FIR. = one**
- 2. Whether any accused is proclaimed offender = No**
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence. = Yes**
- 4. Whether the accused persons are involved in any other case or not. = Not**
- 5. As per statement of IO enclosed herewith, there is only one victim/complainant namely Shashi Mahla in the present case.**

In view of the above statements, it seems that the above said compromise has been effected between the parties without any kind of undue influence or pressure.”

4. Ld. Counsel appearing for respondent 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 petitioner 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.216, dated 11.06.2020 registered for the offences punishable under Section 406 and 420 IPC and Section 24 of Emigration Act, 1983, at Police Station Pundri, District Kaithal (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

December 14, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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