

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

244

CRM-M-16563-2021 (O&M)

Date of decision: 30.09.2022

ARUN KUMAR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Neetu Singh Aashat, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG Punjab.

Mr. Neeraj Yadav, Advocate for
Ms. Manpreet Kaur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.266 dated 20.08.2019 registered for the offence punishable under Section 420 IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station Division No.5, District Ludhiana on the basis of compromise (Annexure P-2).

2. On 20.04.2021, the following order was passed:-

“The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 266 dated 20.8.2019, under Section 420 IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Division 5, District Ludhiana.

Notice of motion.

Ms. Monika Jalota, DAG, Punjab accepts notice on behalf of State of Punjab and Ms. Manpreet Kaur, Advocate

accepts notice on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/ trial Court for recording their statements with regard to compromise on 26.05.2021.

The trial Court 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 the FIR;*
- 2. Whether any accused is declared as proclaimed offender; and*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

List on 15th July, 2021.”

3. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Ludhiana dated 30.04.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

Upon perusal of above statements, documents available on record and after hearing the parties this court submits requisite report there is only one accused namely Arun Kumar arrayed in this case, no PO proceedings are pending or initiated against him and parties have entered into compromise voluntarily & out of their free will and without any pressure or coercion from any side.

4. Mr. Neeraj Yadav, 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 petitioner 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.266 dated 20.08.2019 registered for the offence punishable under Section 420 IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station Division No.5, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

September 30, 2022

S.Sharma(syr)

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