

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

CRM-M-17415-2022

Date of decision : 12.10.2022

Vinay @ Vinay Soni and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Pankaj Garg, Advocate for
Mr. Harsh Neyol, Advocate
for the petitioners.

Mr. Madhur Sharma, Asstt. Advocate General, Punjab
for respondent No.1-State

Mr. D.S. Khurana, Advocate for
Mr. Dharmender Kumar Sihag, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0112, dated 31.05.2021 registered for the offences punishable under Sections 452, 341, 323, 148, 149, 188 of the IPC, 1860 and Section 51 of Disaster Management Act, 2005 at Police Station City-I, Abohar, District Fazilka (Annexure P-1) on the basis of compromise.

2. On 27.04.2022, 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.0112 dated 31.05.2021 registered under Sections 452, 341, 323, 148, 149 and 188 Indian Penal Code, 1860

and Section 51 Disaster Management Act,, 2005 at Police Station City-I, Abohar, District Fazilka.

Notice of motion for 12.10.2022.

At this stage, Mr. Dhruv Dayal, Sr.DAG., Punjab accepts notice on behalf of the respondent-State, whereas Mr. D.K.Sihag, Advocate appears on behalf of respondent Nos. 2 and 3 and admits the factum of compromise. A complete copy of the paper book has been furnished to the learned State counsel.

Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate on or before 18.07.2022 for recording their statements with regard to compromise/settlement. Trial Court/Illaqa 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 Sub Divisional Judicial Magistrate, Abohar dated 12.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“(i) In the present case, as per statements of ASI Lal Chand, I.O of this case and complainant Thakar Dass Siwan, there are six accused namely Vinay @ Vinay, Surinder @ Surinder Kamboj, Gurpreet @ Gurpreet Kamboj, Subhash Chander @

Uncle of Sony Kamboj, Vinay Kumar @ Titi and Akashdeep @ Laddi in present case.

(ii) As per statement of ASI Lal Chand, I.O of this case, none of the accused is proclaimed offender.

(iii) As per above statements of parties, compromise has been effected between petitioners and respondent No. 2 and 3. This compromise is acceptable to both the respective parties. Therefore, this compromise is genuine, voluntarily and is without any coercion or undue influence.

(iv) As per statement of ASI Lal Chand, I.O of this case, two other FIR are pending against accused Vinay @ Titi i.e. one FIR no.103 dated 18.11.2018, u/s 61 of Excise Act, PS Bahaw Wala and another FIR no. 15/2021, u/s 452, 436, 323, 148, 149 IPC, PS City-II. He further stated that one FIR no. 28 dated 23.04.2021, u/s 25/54/59 Arms Act, PS City-II, Abohar is pending against accused Surinder @ Surinder Kamboj.

(v) As per statement of I.O, there is only one complainant/victim namely Thakar Dass Siwan in this case. As per his statement there is no other victim/complainant in this case.”

4. Ld. Counsel appearing for respondent No. 2 and 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.

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.0112, dated 31.05.2021 registered for the offences punishable under Sections 452, 341,

323, 148, 149, 188 of the IPC, 1860 and Section 51 of Disaster Management Act, 2005 at Police Station City-I, Abohar, District Fazilka (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

October 12, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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