

230

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

**CRM-M-28258-2015 (O&M)
Date of decision : 08.12.2022**

PRADEEP KUMAR @ SONU

....Petitioner

Versus

STATE OF PUNJAB & ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Puneet Sharma, Advocate
for the petitioner.

Mr. Jaiteshwar Singh, Asstt. Advocate General, Punjab.

Mr. Aakash Yadav, Advocate for
Mr. Abhinav Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.19, dated 15.01.2015 registered for the offences punishable under Sections 420, 406 IPC, at Police Station City Kapurthala, District Kapurthala (Annexure P-1) on the basis of compromise.

2. On 24th of February, 2016, the following order was passed :-

“XXXXX

CRM No.M-28258 of 2015

List on 01.04.2016.

Parties are directed to be present before the Jurisdictional Magistrate on 11.03.2016 or any other date convenient to the

Court for recording their statements with regard to compromise. Jurisdictional Magistrate is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. Jurisdictional Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any case is pending against either of the parties or not before the next date of hearing. Jurisdictional Magistrate is also directed to intimate with regard to pendency of any P.O. proceedings against the parties.”

3. Pursuant to the aforesaid order, report from CJM, Kapurthala dated 06.07.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“4) It is further submitted that as per statement made on 02.07.2022 by ASI Mangal Singh, No.258/Kpt (Investigation Officer of this case) FIR has been registered against one person namely Pardeep Kumar @ Sonu. Except the above said accused no other person is the accused in this case. Accused has not been declared as proclaimed offender nor there is any other case registered against the above said accused. There is only one victim in this case i.e. complainant Gurwinder Singh.

5) So in this way, on the basis of the statements made by both the parties it has become crystal clear that:

a) The compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. As per the direction of hon'ble High Court a demand draft bearing No.525646 dated 11.04.2022 of Rs.50,000/- has been handed over to complainant Gurwinder Singh by Harjinder Singh father in law of accused Pardeep Kumar in the Court.”

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.19, dated 15.01.2015 registered for the offences punishable under Sections 420, 406 IPC, at Police Station City Kapurthala, District Kapurthala (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

10. Pending application(s), if any, also stands disposed off.

December 08, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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