

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19288-2021

Date of decision : 16.09.2022

Suresh Kumar Bansal

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Himanshu Garg, Advocate for
Mr. Ishan Pasricha, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.316 dated 31.12.2020, registered for the offence punishable under Sections 420 and 120-B of IPC and Section 24 of Immigration Act, 1983 at Police Station Division No.6, District Police Commissionerate, Ludhiana, on the basis of compromise dated 19.04.2021 (Annexure P-2)

2. On 16.09.2021, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

This is an application for extension of time for recording statements of the parties as per order dated 29.06.2021.

Vide the aforesaid order, both the parties were directed to appear before the Illaqa Magistrate on 07.07.2021 for recording their statements in respect of genuineness of compromise in question.

Learned counsel submits that the petitioner was

infected with viral fever and he remained quarantined as a precautionary measure due to the situation arising out of pandemic COVID-19 and thereafter, he could not appear before the trial Court for getting recording his statement on 07.07.2021.

The main case is already fixed for 12.01.2022.

Notice of this application.

On the asking of the Court, Mr. Amar Ashok Pathak, Addl. A.G., Punjab accepts notice on behalf of State of Punjab and Mr. Ishan Pasricha, Advocate appears on behalf of respondent No.2.

In view of nature of prayer made in the application, the same is allowed. Now, the parties are directed to appear before the Illaqa Magistrate on 22.09.2021 for recording their statements in respect of genuineness of compromise in question.

Other conditions of order dated 29.06.2021 would remain the same.”

3. Pursuant to the aforesaid order, report from JMIC, Ludhiana dated 05.01.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

5. Both the parties have been identified by respective counsels.

i. There are three accused persons namely Suresh Kumar Bansal, Pawandeep Singh and Dinesh. However, the compromise has only been effected with accused Suresh Kumar Bansal.

ii. No accused has been declared as a proclaimed offender and no other FIR has been registered against the accused persons except the present FIR No.316 dated 31.12.2020, U/s 420. 120-B IPC and Section 24 of Immigration Act, at P.S. Division No.6, Ludhiana.

iii. From the statements of the parties, it appears

that compromise is genuine and voluntary and without any any inducement, threat or pressure.”

4. The aforesaid report reveals that there are three accused persons namely Suresh Kumar Bansal, Pawandeep Singh and Dinesh. However, the compromise has only been effected with accused-petitioner Suresh Kumar Bansal.

5. Mr. Himanshu Garg, Advocate for Mr. Ishan Pasricha, 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 petitioner 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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Pawandeep Singh and Dinesh Kumar and it is only Suresh Kumar Bansal who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Suresh Kumar Bansal only.

11. 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*.”

12. Consequently, the petition is allowed. FIR No.316 dated 31.12.2020, registered for the offence punishable under Sections 420 and 120-B of IPC and Section 24 of Immigration Act, at Police Station Division No.6, District Police Commissionerate, Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

16.09.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable : No