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

CRM-M-19128-2022

Date of decision : 15.12.2022

Onkar Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Eknoor K. Sara, Advocate
for the petitioner.

Mr. Jaiteshwar Singh, Asstt. Advocate General, Punjab
for respondent No.1-State.

Mr. Sidhdharth Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.32, dated 26.02.2016 registered for the offences punishable under Sections 279, 337, 338 and 427 of the Indian Penal Code, 1860, at Police Station Mehtiana, District Hoshiarpur (Annexure P-1) on the basis of compromise.

2. Ld. Counsel for the petitioner relies upon Para No.13 of the judgment passed by Apex Court in the case of **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), wherein it
has been held that :-

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice....”

3. On 06.05.2022, the following order was passed :-

“Learned counsel refers to Annexure P-3 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.32 dated 26.02.2016 registered under Sections 279, 337, 338 and 427 Indian Penal Code, 1860 at Police Station Mehtiana, District Hoshiarpur.

Notice of motion for 22.09.2022.

At this stage, Mr. Dhruv Dayal, Sr.DAG., Punjab accepts notice on behalf of the respondent-State, whereas Mr. Siddharth Gupta, Advocate appears on behalf of respondent No.2 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 19.07.2022 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. ”

4. Pursuant to the aforesaid order, report from JMIC, Hoshiarpur dated 20.05.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

1	Name of the persons arrayed as accused;	One accused namely Onkar Singh
2	Whether any accused is proclaimed offender;	Accused is not declared proclaimed offender
3	Whether the compromise is genuine, voluntary and without any coercion or undue influence	Compromise is genuine, voluntary and without any coercion or undue influence.
4	Whether the accused persons are involved in any other case or not	As per the status report called from P.S.Mehtiana as well as statement of I.O, the accused is not involved in any other case.
5	How many victims/complainants are there in the FIR.	There is only one victim/complainant in the FIR who is Davinder Singh/respondent No.2

5. 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.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. 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.
- (vi) Though the petitioner already stands convicted yet in view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.

10. Consequently, the petition is allowed. FIR No.32, dated 26.02.2016 registered for the offences punishable under Sections 279, 337, 338 and 427 of the Indian Penal Code, 1860, at Police Station Mehtiana, District Hoshiarpur (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

December 15, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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