

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24759-2021

Date of decision : 28.09.2022

Narinder Singh and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sachin Kumar Chhoker, Advocate for
Mr. Harpreet Singh Jakhal, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Yaseen Sethi, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.100 dated 22.09.2017, registered for the offences punishable under Sections 120-B and 420 of the IPC, at Police Station City Fazilka, District Fazilka, on the basis of compromise deed dated 06.05.2021 (Annexure P-2).

2. On 26.07.2021, the following order was passed:-

“Case has been taken up for hearing through Video Conferencing.

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.100 dated 22.09.2017 under Sections 120-B and 420 IPC, registered at Police Station City Fazilka, District Fazilka and all other consequential proceedings arising therefrom, on the basis of compromise dated 06.05.2021 (Annexure P/2) arrived at between petitioners and respondent No.2.

Notice of motion.

At the asking of Court, Mr. Mehardeep Singh, Additional Advocate General, Punjab, accepts notice on behalf of respondent No.1- State and seeks time to place on record report, if any. At this juncture, Mr. Yaseen Sethi, Advocate has put in appearance on behalf of respondent No.2. Complete copies of paperbook be supplied to them during course of the day.

Learned counsel for respondent No.2 has given concurrence to the factum of compromise Annexure P/2.

Let the parties appear before the trial Court/Area Magistrate, as the case may be, on 23.08.2021 or any other date to be fixed by trial Court/ Area Magistrate for getting their statements recorded with regard to the compromise. Court is directed to report on the following points:-

- (i) how many total accused are facing the trial,
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial,
- (iii) status/stage of the trial/case,
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 27.09.2021.”

3. Pursuant to the aforesaid order, report from CJM, Fazilka dated 23.09.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

- (i) There are two accused namely Narinder Singh

and Vivek Kumar in the present FIR.

(ii) None of the accused has been declared as proclaimed offender in this case.

(iii) The case is at investigation stage and challan has not been presented so far.

(iv) The compromise effected between the parties appears to be genuine and without any kind of pressure.”

4. Mr. Yaseen Sethi, 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 petitioners 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.100 dated 22.09.2017, registered for the offences punishable under Sections 120-B and 420 of the IPC, at Police Station City Fazilka, District Fazilka and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

28.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No