

**(246-2) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-19135-2019 (O&M)

Date of Decision:24.11.2022

Palwinder Singh Bedi and others

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. M.S. Khillan, Advocate
for the petitioners.

Mr. Gurbir S. Dhillon, A.A.G. Haryana.

Mr. Digvijay Dalal, Advocate
for respondent No.2-complainant.

PANKAJ JAIN , J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.1352 dated 24.11.2018 for offence punishable under Sections 147, 149, 323, 384, 506 IPC registered at Police Station Sadar Karnal, District Karnal, on the basis of compromise.

On 02.09.2021, the following order was passed:

“Case heard by video conferencing.

Vide these applications, advancement of the date of hearing in the accompanying petitions is sought.

Learned counsel for the applicants-petitioners submits that the matter has actually been compromised between the parties, the entire issue having arisen out of a rivalry.

Notice in the applications.

Mr. Neeraj Poswal, AAG Haryana, accepts notice on behalf of the respondent-State with Mr Sunil Saharan, Advocate, appearing on behalf of the complainant (s) in all the case.

Learned counsel for the complainant(s) does not dispute the fact that the matter has indeed been compromised between the parties.

That being so, though I do not see any reason for advancement of the date of hearing in the accompanying petitions, which are to be listed on 13.10.2021, however, as regards CRM-M-19052-2019, which is to be listed on 01.12.2021, the application for advancement of the date of hearing is allowed and hearing in that petition is advanced to 13.10.2021.

To be shown in the urgent motion list.

Though the main cases are not listed today, however, on a joint request made by learned counsel for the parties, the petitioners, complainant (s) and all other persons affected by the occurrence, would appear before the learned trial court/Illaq Magistrate upto 30.09.2021 to record their statements. The trial court/Illaq Magistrate would satisfy itself/herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners, of like nature or otherwise.

A photocopy of the order be placed in the files of other connected cases.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Karnal, Karnal dated 06.10.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:

“After careful perusal of the statement given on solemn affirmation by the complainant as well as accused vis-a-vis compromise concerning the present case and after careful analysis of the same, no such material is available on record which can reflect that the compromise

has been effected under fear, threat, pressure or coercion. Rather this Court is convinced that the compromise between the parties in question appears to have been entered into voluntarily without any pressure or inducement. Therefore, the above report is forwarded for your kind perusal, please.”

Learned counsel appearing on behalf of 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 petitioners are quashed.

Similarly learned State counsel has stated not objection in case the FIR is quashed based upon the compromise.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

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 and others vs. State of Punjab and 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 the 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.

Thus, keeping in view the aforesaid facts and circumstances, this Court is of the consider 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.1352 dated 24.11.2018 for offence punishable under Sections 147, 149, 323, 384, 506 IPC registered at

are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

24.11.2022
rajeev

Whether speaking/reasoned Yes/No

Whether reportable Yes/No