

CRM-12053-2022 in/and
CRM-M-45930-2016 (O&M)

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124

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-12053-2022 in/and
CRM-M-45930-2016 (O&M)
Date of Decision:07.04.2022

Jasvir Singh @ Gopi
Vs.
State of Punjab and another

.. Applicant/Petitioner

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Deepanshu Mehta, Advocate for applicant-petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab

Mr. Himanshu Mehta, Advocate
for respondent No.2.

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Manoj Bajaj, J. (Oral)

CRM-12053-2022

The instant application is for pre-poning the date of hearing of
the main petition to an early date.

Notice in the application.

At this stage, Mr. Dhruv Dayal, Sr. DAG, Punjab, accepts
notice on behalf of the respondent-State and does not oppose the prayer.

Application is allowed and the date of hearing is pre-poned to
today.

CRM-694-2022

Application is allowed, subject to all just exceptions.

Annexures A-1 and A-2 are taken on record.

CRM-M-45930-2016 (O&M)

Petitioner has filed this petition under Section 482 Cr.P.C for

148, 149 IPC and Sections 25 and 27 Arms Act, at Police Station Sadar Jagraon, District Ludhiana (Rural) and subsequent proceedings arising therefrom on the basis of compromise dated 18.10.2016 (Annexure P-3).

The FIR was registered on the statement of Gurbinder Singh @ Baba, wherein it is alleged that on 23.09.2016, he was going on his motor-cycle bearing registration No.PB-10-4710 to village Dalla. When, he reached near petrol pump of village Kanonke Kalan after crossing liquor vendor shop, then in the white Swift car, 4-5 young persons came there, but he could not see the registration number of car. One of them was Jasvir Singh @ Gopi son of Gurmail Singh, but he does not know the other persons. Then, they fired two gun shots on him, but he escaped. Later, driver of said car while brought the car parallel to his motor cycle, then Jasvir Singh @ Gopi fired third gun shot, which hit on his right arm and he fell on the ground. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner has argued that on 18.06.2016, when the petitioner along with his friend Jagraj Singh @ Raju had gone to watch a movie, the complainant, namely, Gurbinder Singh (respondent No.2) along with his companions caused injuries to the petitioner, as he being member of Common Front De-addiction Committee stopped the complainant from taking intoxicants. According to him, in respect of the injuries suffered by the petitioner, a case FIR No.143 dated 24.09.2016, under Sections 308, 323, 341, 148 and 149 IPC, at Police Station City Jagraon was registered.

Learned counsel has further argued that in retaliation to the above

dated 24.09.2016, registered under Sections 148, 149 and 307 IPC and Sections 25 and 27 Arms Act, at Police Station Sadar Jagraon, District Ludhiana, and these FIRs are appended with the petition as Annexures P-1 and P-2, respectively. He has further argued that with the intervention of the elderly persons, a compromise has been arrived at between the parties and the copy of the same is Annexure P-3. According to him, the prosecution of the petitioner would be a futile exercise and prays for quashing of FIR.

During the course of hearing, learned counsel for the petitioner has produced the copy of the order dated 26.11.2018 passed in CRM-M-36038-2018 titled as "*Jasveer Singh @ Gopi Vs. State of Punjab and others*" and contended that previously the petitioner had filed petition for quashing of the FIR on merits, wherein the respondent State had filed its reply and disclosed that after completion of investigation, a cancellation report was prepared. The said petition was disposed off by this Court with a direction to the respondents to file the cancellation report within four weeks, and the said order was complied with also, but the said cancellation report remained pending for a long time, till it was rejected by the Magistrate vide order dated 31.08.2021, who had ordered further investigation.

Learned counsel for the petitioner states that one of the petitioner is residing abroad and filed a separate application bearing No.CRM-35972-2022 seeking permission for recording his statement in respect of compromise through GPA, namely, Gurmail Singh.

On the other hand, learned State counsel has opposed the prayer on the ground that the offences committed are serious in nature and pursuant to order dated 31.08.2021 investigation is in progress. Apart from it, he has further opposed the prayer of the petitioner for recording his

statement through GPA and relied upon the decision dated 16.07.2021 passed in CRM-M-26957 titled “***Sarabjit Singh Vs. State of Punjab and another***”. According to him, the application for recording the statement of petitioner through GPA is not maintainable and prays for dismissal of the petition.

After hearing learned counsel for the parties, this Court finds that the solitary ground of compromise raised in the petition is not worth acceptance considering the nature and seriousness of the offences. At this stage, it will be useful to refer the decision in “***The State of Madhya Pradesh Vs. Laxmi Narayan and others***”, 2019 AIR (SC) 1296, the Hon'ble Supreme Court has laid down the principles for quashing of the criminal proceedings in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:

*“However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C., 1973 from the impugned judgment and order, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482 Cr.P.C., 1973 the High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of ***State of Maharashtra v. Vikram Anantrai Doshi, 2014 (4) R.C.R (Criminal) 381: (2014) 15 SCC 29***, the Court’s*

principal duty, while exercising the powers under Section 482 Cr.P.C., 1973 to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence.”

In the case of ***Gian Singh V. State of Punjab 2012(4) R.C.R. (Criminal) 543: (2012) 10 SCC 303***, the Apex Court has observed and held as under:

“The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have a

serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences.”

From the aforesaid observations of Hon'ble the Apex Court, it is apparent that the offences with serious magnitude and gravity, having a serious impact on the society, have been excluded from the purview of powers to be exercised under Section 482 Cr.P.C. As per allegations in the FIR, petitioner was armed with firearm weapon, who fired gun shot, which hit on the right arm of complainant, as a result of which, he suffered injury. Therefore, the ground based upon compromise and relied upon by the petitioners is rejected.

Resultantly, in view of above discussion, but without expressing any opinion on the merits of the the prosecution case, this Court does not find it to be a fit case for exercise of inherent powers under Section 482 Cr.P.C. for quashing of the FIR.

The application seeking permission for recording his statement in respect of compromise through GPA, namely, Gurmail Singh is also dismissed as infructuous.

The petition is dismissed.

07.04.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No