

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47097-2018

Date of decision : 31.10.2022

Daljit Singh and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rakesh Kumar, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.0101 dated 22.08.2018, registered for the offence punishable under Sections 323, 324, 341 and 34 of IPC (Section 326 of the IPC added later on), at Police Station Sadar, Kapurthala, District Kapurthala, on the basis of compromise dated 17.10.2018.

2. On 17.05.2019, the following order was passed:-

Learned counsel for the petitioners refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.101 dated 22.08.2018 (Annexure P-1) under Sections 323/324/341/34 IPC (offence under Section 326 added later on) registered at Police Station Sadar Kapurthala, District Kapurthala on the basis of compromise (Annexure P-2).

Learned counsel for respondent No.2 submits that the matter has indeed been compromised.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 31.05.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq 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 Investigation 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.

Adjourned to 29.08.2019.”

3. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Kapurthala dated 14.06.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “1. As per statement of ASI Balbir Singh, No.395/Kpt., there are two accused Daljit Singh and Harinder Singh in the present FIR.
2. As per statement of complainant and ASI Balbir Singh, No.395/Kpt., accused Daljit Singh and Harinder Singh was never declared as proclaimed person in this case.
3. In view of the statements so made by complainant Harpreet Singh and accused Daljit Singh and Harinder Singh, I am of the considered opinion

that they have entered into compromise voluntarily and without any pressure and they have made their statements in the Court voluntarily and without any pressure and their compromise is genuine one.

4. As per statement of ASI Balbir Singh, No.395/Kpt., Investigating Officer of this case, the accused are not involved in any other case and no other FIR has been registered against the abovesaid accused.

5. The statement of Investigating Officer SI Baljinder Singh No.115/Jalandhar, as stated above has been recorded and as per statement of the Investigating Officer there is only one complainant who is victim in this case.”

4. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

6. 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.

7. 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.

8. Consequently, the petition is allowed. FIR No.0101, dated 22.08.2018 registered for the offence punishable under Sections 323, 324, 341 and 34 of IPC (Section 326 of the IPC added later on), at Police Station Sadar, Kapurthala, District Kapurthala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

31.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No