

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49038-2018

Date of decision : 16.11.2022

Mohan Lal and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sumit Kalyan, Advocate for
Mr. G.S. Madaan, Advocate
for the petitioners.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.74 dated 13.05.2015, registered for the offences punishable under Sections 420, 415, 417, 418, 506 and 120-B of IPC, at Police Station Divisional No.1, Pathankot, District Gurdaspur on the basis of compromise dated 31.12.2016 (Annexure P-2).

2. On 02.11.2018, the following order was passed:-

“Prayer made in this petition is for quashing of FIR and all the consequential proceedings arising therefrom on the basis of the compromise between the parties.

Notice of motion for 08.02.2019.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 10.12.2018.

The Illaqa Magistrate/trial Court is directed to

submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;
- (ii) Whether any accused is proclaimed offender; and
- (iii) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.”

3. Pursuant to the aforesaid order, report from CJM, Pathankot dated 15.01.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Keeping in view all aspects and statements of complainant, accused and as per report of Ahlmad, the undersigned is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is genuine, voluntary and without any coercion or under influence. As per record, two persons namely Mohan Lal and Kishan Lal are involved in this case and as per record, none of the accused is declared as Proclaimed offender in this case FIR, till date.”

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.74 dated 13.05.2015, registered for the offences punishable under Sections 420, 415, 417, 418, 506 and 120-B of IPC, at Police Station Divisional No.1, Pathankot, District Gurdaspur on the basis of compromise dated 31.12.2016 (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

16.11.2022
Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No