

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-26815-2022

Date of decision : 12.10.2022

Ramkesh

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjeev Kaushik, Advocate
for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana
for respondent No.1-State.

Mr. Vishal Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.55, dated 03.02.2021 registered for the offences punishable under Sections 279, 336, 427 and 337 of the IPC, 1860 at Police Station Shivaji Colony, Rohtak District Rohtak (Annexure P-2) on the basis of compromise.

2. On 17.06.2022, the following order was passed:-

“Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.55 dated 03.02.2021 registered under Sections 279, 336, 427 and 337 of IPC at Police Station Shivaji Colony, Rohtak, District Rohtak on the basis of compromise dated 16.04.2022 (Annexure P-2) entered into between the parties.

Notice of motion.

Mr. Karan Sharma, DAG, Haryana accepts notice on behalf of respondent No.1-State.

Mr. Vikas Bali, Advocate has put in appearance on behalf of respondent No.2 and filed his memorandum of appearance, which is taken on record. He admits the factum of compromise.

The parties are directed to appear before the Illaqa Magistrate/Trial Court on 13.07.2022 for recording their statements with regard to the genuineness of the compromise Annexure P-2. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/ Trial Court adjourned to 12.10.2022.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate 1st Class, Rohtak dated 13.07.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“ Point-wise report is as follows:-

- (i) As per the statement of Investigating Officer, FIR was lodged against one accused. His statement regarding compromise is recorded.
- (ii) No accused has been declared a Proclaimed Person.
- (iii) Case is fixed for prosecution evidence.
- (iv) Compromise is genuine, voluntarily and out of free will.”

4. Ld. Counsel appearing for 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 petitioner are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.55, dated 03.02.2021 registered for the offences punishable under Sections 279, 336, 427 and 337 of the IPC, 1860 at Police Station Shivaji Colony, Rohtak District Rohtak (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 12, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No