

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23020-2019

Date of decision : 16.12.2022

Sagar and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- None for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.313 dated 19.06.2016, registered for offences punishable under Sections 323, 325, 326, 452, 148, 149 and 34 of IPC at Police Station Kotwali, District Faridabad on the basis of mutual compromise/agreement dated 02.04.2019 (Annexure P-2).

2. On 15.09.2022, the following order was passed:-

“Vide order dated 20.05.2019, the parties were directed to appear before the Illaqa Magistrate/trial Court for recording, their statements qua compromise. The concerned Magistrate was directed to submit a report containing information for following questions:-

“1. Number of persons arrayed as accused.

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 FIR or not.

5. The trial Court is also directed to record the statement of the Investigating Officer as victims/complainants are there in the FIR.

Report has been received but the same is totally discrepant. Concerned Magistrate shall submit fresh report along with explanation.

Adjourned to 16.12.2022.”

3. Pursuant to the aforesaid order, fresh report from JMIC, Faridabad dated 04.10.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Point (1): Number of persons arrayed as accused?

Report: As per report under Section 173 Cr.P.C., there are total six accused persons namely Sagar, Yogesh, Pushap Raj, Rahul, Jatin and Chanchal.

Point (2): Whether any accused is proclaimed offender?

Report: No.

Point (3): Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Report: Yes. The compromise is genuine, voluntary and without any coercion or undue influence.

Point (4): Whether the accused persons are involved in any other FIR or not?

Report: No.

Point (5): How many victims/complainants are there in FIR?

Report: Statement of Investigating Officer was recorded. There are **two victims** namely Dharampal (Complainant) and Jitender (injured). Statement of both victims has been recorded.”

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 State 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.313 dated 19.06.2016, registered for offences punishable under Sections 323, 325,

326, 452, 148, 149 and 34 of IPC at Police Station Kotwali, District Faridabad and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

16.12.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No