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

CRM-M-28867-2022

Date of Decision: 08.07.2022

Ritik Lather @ Sita

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Virender Mandhan, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 of the Code of Criminal Procedure with a prayer for quashing of the FIR bearing No.676, dated 06.12.2021, registered under Sections 195-A & 506 of IPC registered at Police Station Sector 32-33, Karnal (Annexure P-1) on the basis of compromise dated 03.06.2022 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioner has submitted that respondent No.2 lodged an FIR by alleging that he is doing a mining work in the name of Jai Yamuna Ji Developers and a robbery had happened in the aforesaid office and there was a theft of Rs.24,68,000/- and regarding which an FIR is pending in the Civil Lines Police Station, Karnal. The accused in that case were arrested and challan was filed by the police in the competent Court and the case is pending for the evidence. It has been stated in the FIR that the case was fixed for 09.12.2021 and on 04.12.2021, Rajat, who works with them and also has witness in the case, got a call from Sita (Petitioner) whose name has been mentioned as Ritik Lather @ Sita in the Memorandum of Parties, on number

9992441333 from mobile number 8950205638, Rajat was asked not to testify in the case and then one Sachin received a call on his mobile number from one of the aforesaid mobile number from one person named Ankit, who threatened him not to testify in the case. Thereafter, again on 05.12.2021 at 09.24 pm, the complainant also received a call on his mobile number and they said that not to testify in above mentioned case, otherwise the result will not be good.

Learned counsel for the petitioner has submitted that there are three accused in the present case and now a compromise has been arrived between the petitioner and both the respondents. One compromise is with Dalbir Singh Mann vide Annexure P-2 and other compromise is with the other person, namely, Rajat vide Annexure P-3 which is in the form of affidavit. He further submitted that in the compromise it has been stated that the petitioner did not threaten them for not testifying in the pending case.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana, has stated that he has received an advance copy of the petition and also sought instructions in the present case. He further submitted that it is a case where there are three accused and so far as the present petitioner, namely, Ritik Lather @ Sita is concerned, he did not join the investigation and he did not appear and is absconding, therefore, the police has filed a report under Section 173 of the Cr.P.C. only qua one of the other co-accused, namely, Ankit and the remaining two persons including the petitioner are absconding from last seven months. He also submitted that such kind of petition seeking quashing based upon the compromise and that too in a partial manner is not permissible. He further submitted that the matter, qua the petitioner, is still at the investigation stage and it is yet to be ascertained on the

basis of his interrogation as to whether he actually threatened the witnesses etc. or not and for that purpose, it is the duty of the petitioner to have cooperated with the investigation process but instead of doing so, he absconded and now he has filed the present petition seeking quashing of the FIR based upon compromise. He also submitted that the allegations against the petitioner affects the administration of justice since the allegations are pertaining to threatening of persons not to testify in the Court and therefore, the offence is a serious and heinous offence, since it affects the administration of justice. Furthermore, the conduct of the petitioner would disentitle him for seeking quashing of the FIR based upon compromise. He also submitted that the petitioner is involved in three more cases, out of which one is under 307 of the IPC and the other case under Sections 365, 375, 379-B and third one is under Section 353 & 354 of the IPC. He further submitted that the petitioner has suppressed this material facts from the Court and has not stated anything with regard to the aforesaid three cases against the petitioner and therefore, on this ground as well, the present petition deserves to be dismissed.

At this stage, learned counsel for the petitioner has stated that out of the aforesaid three cases as pointed out by the learned Addl. A.G., Haryana, two FIRs have already been quashed.

I have heard the learned counsels for the parties.

The law with regard to the quashing of the FIR based upon the compromise is now well settled. The Hon'ble Supreme Court in “State of Madhya Pradesh Vs. Laxmi Narayan and others”, 2019(2) SCC (Crl.) 706, observed as follows:-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to

hereinabove, it is observed and held as under:

- i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*
- iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*
- iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be*

open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

It is, therefore, a settled law that the High Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure can quash the FIR/complaint either on merits or on the basis of compromise in order to

prevent the abuse of the process of law and to secure the ends of justice. Various parameters have been laid down by the Hon'ble Supreme Court in this regard. In the present case, the allegations against the petitioner were that he had repeatedly threatened the complainant and some other persons not to testify in the Court of law. Such an allegation cannot be treated as a pure and simple offence since it also affects the administration of justice. The matter qua the petitioner as per the learned Addl. A.G., Haryana is still under investigation since the petitioner has already absconded and the State has presented challan only qua the other co-accused since he has not even joined the investigation. Apart from the same, the petitioner was also duty bound to have disclosed the other cases against the petitioner even if out of the three cases, two FIRs have been quashed as per learned counsel for the petitioner since at the time of filing of the petition complete facts are required to be disclosed.

Therefore, considering the aforesaid facts and circumstances of the case, this Court is of the view that the present case falls within the category of serious offence, and therefore, it cannot be quashed based upon the compromise. Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

08.07.2022
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |