

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50889-2018

Date of decision : 17.10.2022

Maninder Singh @ Manna and anr

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Ghumman, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Sukhdeep Singh, Advocate
for respondents No.2 to 5.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.72 dated 03.06.2012, registered for the offences punishable under Sections 326, 323 and 34 IPC (Section 307 of IPC added later on) at Police Station Goraya, District Jalandhar City, on the basis of compromise (Annexure P-2).

2. On 19.11.2018, the following order was passed:-

“Prayer in this petition is for quashing of FIR No.72 dated 03.06.2012 under Sections 326, 323, 34 IPC and Section 307 IPC (added later on), registered at Police Station Goraya, District Jalandhar City and all the subsequent proceedings arising therefrom, on the basis of compromise.

Notice of motion for 15.02.2019.

On asking of the Court, Mr. Sidakmeet Sandhu, AAG, Punjab accepts notice on behalf of respondent

No.1 while Mr. Sukhdeep Singh, Advocate has appeared on behalf of respondents No.2 to 5.

Learned counsel for the petitioners is directed to supply a copy of paper book to counsel opposite during course of the day.

In the meantime, parties are directed to appear before the trial Court/Illaqa Magistrate for recording their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaqa 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, and
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 to how many victims/complainants are there in the FIR.”

3. Pursuant to the aforesaid order, report from Additional Sessions Judge, Jalandhar dated 12.02.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

“That it is submitted that as per the respective statements of the complainant Narinder Singh, the injured Joginder Singh, the injured Darshan Singh, the injured Mandeep Singh and the accused

Maninder Singh and Harpinder Singh recorded on dated 17.12.2018 before this Court, the compromise arrived at between the complainant and the injured on the one hand and the aforesaid accused on the other hand, is genuine, voluntary and without any coercion and undue influence.

That it is submitted that the aforesaid accused Maninder Singh and Harpinder Singh are not involved in any other FIR except the present case FIR No.72 dated 3.6.2012 and its cross version as per their respective statement recorded by this court on dated 17.12.2018.

That it is submitted that the statement of SI Pankaj Kumar, the investigating officer was recorded on dated 17.12.2018, whereby he has submitted that the aforesaid FIR No. 72 dated 3.6.2012 under Sections 307, 323, 34 of Indian Penal Code was registered at Police Station Goraya, Jalandhar on the complaint of Narinder Singh, the complainant and there are four injured/victims persons i.e. Narinder Singh, Joginder Singh, Darshan Singh and Mandeep Singh in the aforesaid FIR No. 72 dated 3.6.2012.”

4. As per the allegations the accused were earlier booked for offences under Sections 307, 323, 34 IPC in view of injuries suffered by Joginder Singh. It is discernible from the records of the case that the prosecution filed a supplementary report under Section 173(3) Cr.P.C. by virtue of which Section 307 IPC was converted to offence under Section 326 IPC. The said fact finds mentioned in the order dated 19.10.2021 passed by learned Additional Sessions Judge, Jalandhar whereby the accused, namely, Maninder Singh @ Manna and Harpinder Singh @ Pindri were granted bail.

5. Mr. Madhur Sharma, AAG, Punjab appearing for the State does not dispute the said fact.

6. Likewise Mr. Sukhdeep Singh, Advocate appearing for respondents No.2 to 5 also admits the aforesaid factual position with respect to deletion of offence under Section 307 IPC.

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

8. 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.

9. 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.

10. Consequently, the petition is allowed. FIR No.72 dated 03.06.2012, registered for the offences punishable under Sections 326, 323 and 34 IPC (Section 307 of IPC added later on) at Police Station Goraya, District Jalandhar City and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

17.10.2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No