

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27378-2022

Date of decision : 05.12.2022

Sandeep Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ravinder Pankaj, Advocate for
Mr. R.K. Arya, Advocate
for the petitioner.

Mr. Jaiteshwar Singh, AAG, Punjab.

Ms. Sukhveer Kaur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.140 dated 07.09.2017, registered for the offences punishable under Sections 420 and 120-B of IPC at Police Station Batala, District Gurdaspur, on the basis of compromise dated 15.06.2022 (Annexure P-2).

2. On 25.07.2022, the following order was passed:-

“The petitioner has approached this Court under Section 482 of the Code of Criminal Procedure for grant of pre-arrest bail in case bearing FIR No. 140 dated 07.09.2017 under Sections 420 and 120-B of the Indian Penal Code registered at Police Station Batala, District Gurdaspur and all consequential proceedings arising therefrom on the basis of compromise dated 15.06.2022 (Annexure P-2).

Notice of motion.

At this stage, Ms. Amarjit Kaur Khurana, DAG, Punjab appears and accepts notice on behalf of

respondent No.1-State.

Ms. Sukhveer Kaur, Advocate, appears on behalf of respondent No.2 admits the execution of compromise (Annexure P-2).

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 25.08.2022 or on any other date as convenient to the Court.

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;
- (iii) The stage of trial/proceedings; and
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 26.09.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired. ”

3. Pursuant to the aforesaid order, report from Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Batalaa dated 13.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

- i) As per record and as per the statement of Investigating Officer SI Iqbal Singh No. 2832/B1, PS. City, Batala, FIR bearing no. 140 dated 07.09.2017, under Sections 420 and 120-B of IPC, was registered

at Police Station City Batala, Police District Batala, District Gurdaspur, wherein, two persons namely Sandeep Singh S/o Savinder Singh @ Mohinder Shinda and Ravinder M.S. S/o Sadiq were arrayed as accused in the above mentioned FIR, after enquiry was conducted on complaints given to Senior Superintendent of Police, Batala by Kiran Mehra W/o Sudesh Kumar Ro Mohalla Kazi Hatta Thathiari Gate Batala, District Gurdaspur, Rajbir Kaur Wo Laddi R/o Hathi Gate Dehriwali Gali Batala, Jagdish Masih Slo Kuldeep Masih R/o Bhumbli, Distt. Gurdaspur, Sukhwinder Kaur Wo Mohinder Singh R/o Rampur, PS Achal Sahib, Amarjit Singh S/o Gurdit Singh R/o Bajwa Colony Batala, Dilbagh Singh S/o Mohinder Singh R/o Harpura and Jagroop Singh S/o Pargat Singh R/o Taragarh Batala, vide complaints no. 356-EOW dated 20.09.2016, 3569-EOW dated 09.11.2016, 350-EOW dated 15.09.2016, 192-MPC dated 13.03.2017, 683-Pesi dated 06.03.2017, 11-EOW dated 23.02.2017, 604-OPC/BR dated 31.12.2016, 421-EOW dated 17.12.2016, 8-EOW dated 09.01.2017, 420-EOW dated 17.12.2016, respectively.

ii) As per the statement of Investigating Officer, in the present FIR accused Sandeep Singh has not been declared proclaimed person/offender by any Court of law not any PO proceeding is pending against him and in the present FIR, an application for issuance of arrest warrants of accused Ravinder M.S S/o Sadiq is pending in this Court and non bailable warrants of accused Ravinder M.S. have been issued for 03.09.2022.

iii) As per the statement of Investigating Officer the present FIR is under investigation and police challan u/s 173 CRPC has not been presented in the Court yet.

iv) In view of the statements got recorded by both the parties, this Court is satisfied that the compromise

effected between them is genuine, and is not the result of any pressure or coercion.”

4. The aforesaid report reveals that there are two accused persons namely Sandeep Singh and Ravinder M.S. However, the compromise has only been effected with accused-petitioner Sandeep Singh.

5. Ms. Sukhveer Kaur, Advocate appears for respondents No.2 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioner are quashed.

6. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Ravinder M.S. and it is only Sandeep Singh who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Sandeep Singh only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 *prima facie*.”

12. Consequently, the petition is allowed. FIR No.140 dated 07.09.2017, registered for the offences punishable under Sections 420 and 120-B of IPC at Police Station Batala, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

05.12.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable : No