

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26462-2020

Date of decision : 06.12.2022

Vijay Sehgal and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Momi, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Govind Mor, Advocate for
Mr. Jasbir Mor, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.325 dated 18.06.2020 registered for offences punishable under Sections 406 and 420 of IPC at Police Station Pehowa, District Kurukshetra on the basis of affidavit/compromise dated 23.07.2020 (Annexure P-3).

2. On 30.03.2022, the following order was passed:-

“CRM-7116-2022

Prayer in the instant application is for preponement of the main petition, which is fixed for 21.09.2022, on the ground that in compliance of the order dated 17.11.2021, both the parties had appeared before learned trial Court for getting their statements recorded except petitioner No.1 as he was out of India.

In view of the above and with no objection from the counsel opposite, the instant application is allowed and accordingly, the main petition is preponed to today

itself.

CRM-9521-2022 in/and
CRM-M-26462-2020 (O&M)

In pursuance of the order dated 17.11.2021 passed by this Court, report of learned SDJM, Pehowa has been received, wherein it has been submitted that the statements of parties could not be recorded as one of the accused namely Vijay Sehgal (petitioner No.1) failed to appear before the Court.

Learned counsel for the petitioners requests that one more opportunity be granted to appear before learned trial Court/Illaqa Magistrate for getting the statements recorded.

The aforesaid request is acceded to.

Parties are again directed to appear before trial Court/Illaqa Magistrate on 08.04.2022 for getting their statements recorded.

Report of the Illaqa Magistrate/trial Court be awaited for the date fixed i.e.21.09.2022.”

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

“xx xx xx

Statement of accused Vijay Sehgal through whatsapp number 9728879980 has been recorded. The same was duly identified by learned counsel for accused. It is clear from perusal of the statements of the parties that they have amicably settled the matter after arriving at a compromise and settlement. The compromise seems to be genuine and voluntary and out of free will.”

4. Mr. Govind Mor, Advocate for Mr. Jasbir Mor, Advocate appears for respondent No.2 and 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 petitioners are quashed.

5. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard learned 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.325 dated 18.06.2020 registered for offences punishable under Sections 406 and 420 of IPC at Police Station Pehowa, District Kurukshetra and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

06.12.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No