

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32503-2022

Date of decision : 27.09.2022

Deepak Kumar and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rimple Saini, Advocate for
Mr. D.D. Sharma, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Pushpinder Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.50 dated 05.03.2022, registered for the offences punishable under Sections 323, 324, 427, 452 and 34 of the IPC at Police Station Bhargo Camp, Jalandhar on the basis of compromise deed dated 29.04.2022 (Annexure P-2).

2. Counsel for respondent No.2 submits that even though Rajiv has not joined as petitioner by the present petition, but the compromise is composite and one of the accused namely Rajiv is also part thereof.

3. On 27.07.2022, the following order was passed:-

“The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.50 dated 05.03.2022 under Sections 323, 324, 427, 452, 34 of the IPC registered at Police Station Bhargo Camp, Jalandhar, Punjab (Annexure P-1) and all consequential proceedings arising therefrom on the basis of

compromise dated 29.04.2022 (Annexure P-2) effected between the parties.

Notice of motion.

At this stage, Mr. Karanbir Singh, AAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Pushpinder Singh, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise dated 29.04.2022 (Annexure P-2) and filed his vakalatnama in the Court today which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 26.08.2022 or any other date convenient to the Court for recording their respective statements with regard to compromise/settlement.

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;
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.
- (v) Whether the compromise has been effected with all the accused persons and with all the complainant(s)/injured.

To come up on 27.09.2022 for further consideration.

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

4. Pursuant to the aforesaid order, report dated 01.09.2022 from

As per the report, the trial Court has recorded as follows:-

“xx xx xx

- a) That the FIR has been registered against four accused namely Deepak Arora, Ritik Arora, Rahil Kumar and Rajiv.
- b) That as per the statement of the Investigating Officer none of the accused has been declared as a proclaimed offender. The police has not filed the police Challan and the proceedings are pending consideration at the stage of awaiting police Challan. As per the statement of the Investigating Officer the arrest of accused Rahil Kumar and Rajiv is yet to be effected.
- c) That the present petition has been filed by three accused namely Deepak Kumar, Rahil Kumar and Ritik Roshan. The present petition has not been filed by co-accused Rajiv.
- d) That as per the statement of the parties the compromise is genuine, voluntary and without any coercion or undue influence.
- e) That as per the statement of the complainant and the statement of Investigating Officer, the complainant Kunal Bhandari is the only injured person. The complainant has entered into the compromise with all the four accused.”

5. Mr. Pushpinder Singh, 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.

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. Consequently, the petition is allowed. FIR No.50 dated 05.03.2022, registered for the offences punishable under Sections 323, 324, 427, 452 and 34 of the IPC at Police Station Bhargo Camp, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

27.09.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No