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

CRM-M-28171-2019

Date of decision : 15.12.2022

Deepak Kumar

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gautam Kaile, Advocate for
Mr. Rajiv Sharma, Advocate
for the petitioner.

Mr. Gaurav Gurcharan S. Rai, Dy. Advocate General, Haryana
for respondents No.1 to 3.

None for respondent No.4.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.212 dated 25th of June, 2016, registered for offences punishable under Sections 420, 120 IPC of the Indian Penal Code, 1860 at P.S. Udyog Vihar, Distt. Gurgaon (Annexure P-1) on the basis of compromise.

2. On 08.09.2022, the following order was passed :-

“By way of present petition filed u/s 482 Cr.P.C., the petitioner is seeking quashing of case FIR No.212 dated 25th of June, 2016, registered for offences punishable under Sections 420, 120 IPC of the Indian Penal Code, 1860 (Annexure P-1) at Police Station Udyog Vihar, District Gurgaon and all proceedings subsequent thereto, on the basis of compromise dated 01.04.2018.

Ld. Counsel for the petitioner relies upon Annexure P-2, to submit that the compromise was composite and the complainant compromised the issue with all the three accused. So far as the other two accused are concerned, petitions filed by them seeking quashing on the basis of same compromise stand allowed vide orders dated 8th of March, 2019 (in CRM-M-16195-2018) and 22nd of August, 2019 (in CRM-M-19914-2019), respectively.

He relies upon the statements of the parties recorded in CRM-M-16195-2018 wherein after recording of statements, the Trial Court reported that the compromise was genuine and the parties have amicably settled their dispute.

He further submits that now the trial is fixed for 10th of October, 2022 *qua* the petitioner.

In view of the above, the parties are directed to appear before learned Trial Court/Illaq Magistrate on 10th of October, 2022. On their doing so, the learned Trial Court/Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The Trial Court/Duty Magistrate is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

List on 15th December, 2022.”

3. Pursuant to the aforesaid order, report from JMIC, Gurugram dated 24.11.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In furtherance of the said directions statements of parties viz complainant and of accused duly identified were recorded. It has been verified that both the complainant and the accused have entered into compromise voluntarily and same is genuine. Further, the statement of SI Mahesh Kumar 1474 is also recorded to the effect there is no PO proceeding pending against the accused in the present case.”

4. Respondent No.4 has remained unrepresented. Though, as per the report, respondent No.4-Ashu Gupta appeared before the Concerned Magistrate and suffered a statement admitting the fact of there being compromise between the parties and submitted his no objection in case the FIR and all proceedings subsequent thereto against the present petitioner are quashed

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.212 dated 25th of June, 2016, registered for offences punishable under Sections 420, 120 IPC of the Indian Penal Code, 1860 at P.S. Udyog Vihar, Distt. Gurgaon (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

December 15, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No