

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36281-2021 (O&M)
Date of decision : 19.12.2022

Aslam and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Inderjeet Singh, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Harshit Singla, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.150 dated 13.08.2016, registered for offences punishable under Sections 148, 149 and 323 of IPC (Sections 324 & 506 of IPC added later on) at Police Station Chhachhruali, District Yamuna Nagar on the basis of compromise dated 02.08.2021 (Annexure P-2).

2. On 19.04.2022, the following order was passed:-

“CRM-13275-2022

1. The present application has been filed for preponing the date of hearing in the main case.
2. For the reasons recorded in the application, the same is allowed. Main case is preponed from 15.9.2022, and, the same is taken up on board today.

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1. As prayed for, the parties concerned, are directed to record their respective personal

appearances, or through their validly constituted attorneys, before the learned Illaqa Magistrate concerned, on 28.4.2022.

2. Upon the parties making their respective personal appearances, or through their validly constituted attorneys, before the learned Illaqa Magistrate concerned on 28.4.2022, the Illaqa Magistrate shall record their respective testifications, and, thereafter shall make a report to this Court, with respect to the validity of the compromise, as becomes drawn amongst the accused, and, the respondent concerned, and, also disclose in his report, that whether it is free from any vice of duress or compulsion, becoming exercised upon the victim-complainant. The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; (c) whether the prosecution evidence has commenced; and (d) whether all the concerned have signed the compromise deed.

3. For the afore purpose, list on 18.5.2022.

4. In view of the compromise, in respect whereof the learned Illaqa Magistrate is directed to transmit his report to this Court, therefore, he is restrained, till further orders, from taking up any further judicial proceedings, in respect of FIR (supra).”

3. Pursuant to the aforesaid order, report from JMIC, Sub Division Bilaspur dated 29.04.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

After considering the oral submissions and statements made by the parties, I am satisfied that the compromise between the parties has been effected with their free volition and it is not a result of any undue influence or coercion. From perusal of the challan it reveals that on 11.09.2016 accused Aslam and Yunus who were on anticipatory bail from the court of Sh. Sandeep Garg, Learned Addl. Sessions Judge, Yamuna Nagar were joined in investigation and released on bail by the police and thereafter challan of this case was filed on 26.09.2016. Thereafter, charge was framed against the accused persons on 13.10.2016 and thereafter case was fixed for evidence of prosecution. Evidence of prosecution witnesses have been recorded and statements of accused under Section 313 Cr.PC have also been recorded. Now, the case is at the stage of defence evidence, if any and arguments. In the present case there are total seven accused namely Aslam, Jaitun, Rohila, Yunus, Munsrina, Mehboob and Shehrina @ Sakila and one complainant/injured namely Samrejo and all the accused persons and complainant/injured have appeared before the court and got recorded their statements regarding compromise. Photo copy of compromise has been placed on file by the accused and same is signed/thumb marked by both the parties. As per statement of accused, original compromise has been affixed with the file before Hon'ble Punjab and Haryana High Court. It is further submitted that none of the accused has been declared proclaimed offender in the present case.”

4. Mr. Harshit Singla, 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.150 dated 13.08.2016, registered for offences punishable under Sections 148, 149 and 323 of IPC (Sections 324 & 506 of IPC added later on) at Police Station Chhachhruali, District Yamuna Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

19.12.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No