

(244) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33465-2022

Date of Decision: 15.12.2022

Jagroop Singh and another ... Petitioners

Vs.

State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. J.S. Devgan, Advocate for the petitioners.

Mr. Jaiteshwar Singh, A.A.G. Punjab.

Mr. Ankush Rampal, Advocate for respondent No.2.

PANKAJ JAIN , J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.208 dated 20.05.2021 for offence punishable under Sections 379-B/34 IPC registered at Police Station Sohana, District SAS Nagar, on the basis of compromise.

On 01.08.2022, the following order was passed:

“The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashed of FIR No.208 dated 20.05.2021 under Sections 379-B/34 IPC registered at Police Station, Sohana, District SAS Nagar (Annexure P-1) and all consequential proceedings arising therefrom on the basis of compromise dated 26.07.2022 (Annexure P-2) effected between the parties.

Notice of motion.

At this stage, Ms. Amarjit Kaur Khurana, DAG Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. ankush Rampal, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise dated 26.07.2022 (Annexure P2) and filed his memo of appearance in the Court today which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 01.09.2022 or any other date convenient to the Court for recording their respective statements with regard to

compromise/settlement, subject to cost of Rs.20,000/- in the Punjab and Haryana Environment Protection Fund to be deposited by petitioners.

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.”*

In compliance of the aforesaid order, Rs.20,000/- has been deposited.

Receipt produced in this regard is taken on record as Mark 'A'. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, dated 05.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:

“By considering the statements of complainant Gursewak Singh, Accused Jagroop Singh and Gursewak Singh and compromise Ex.C1 and remand papers of the present case, the requisite point wise report is as under:

- (i) The present FIR has been registered against the above mentioned accused Jagroop Singh and Gursewak Singh only.*
- (ii) The accused are not proclaimed offender;*
- (iii) The present FIR is still pending at investigation stage.*
- (iv) The compromise between the parties is genuine, voluntary, and without any coercion or undue influence.*
- (v) The compromise has been effected with all the accused persons and with all the complainant (s)/injured.”*

Learned counsel appearing on behalf of respondent No.2 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.

Similarly learned State counsel has stated not objection in case the FIR is quashed based upon the compromise.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

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 and others vs. State of Punjab and 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 the 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.

Thus, keeping in view the aforesaid facts and circumstances, this Court is of the consider 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.208 dated 20.05.2021 for offence punishable under Sections 379-B/34 IPC registered at Police Station Sohana, District SAS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.12.2022
rajeev

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