

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

CRM-M-37140-2021

Date of decision : 28.09.2022

Kesar Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Kumar, Advocate for
Mr. B.D. Sharma, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Atul Gaur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.293 dated 25.11.2007, registered for the offences punishable under Sections 324, 148 and 149 of the IPC, at Police Station Division No.8, Jalandhar on the basis of compromise dated 16.02.2021 (Annexure P-3).

2. On 09.09.2021, the following order was passed:-

“By invoking Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR, in question and proceedings emanating therefrom on the basis of compromise arrived at between the parties.

Notice of motion for 24.01.2022.

Mr. Joginder Pal Ratra, DAG, Punjab accepts notice on behalf of respondent – State while Mr. Atul Gaur, Advocate has appeared on behalf of respondent No.2.

Counsel for the petitioners is directed to supply copy of the paperbook to counsel opposite during course of the day.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 30 days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused.
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 FIR or not.
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”

3. Pursuant to the aforesaid order, report from JMIC, Jalandhar dated 05.10.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

From the statement of the parties, recorded in the court and in my presence, the compromise between the parties is found to be genuine and valid. Report is hereby submitted to the effect that (i) there are total five persons arrayed as accused in the present case (ii) None of accused has been declared proclaimed offender in the present case (iii) the compromise between the parties is found to be genuine, voluntary

and without any undue influence or coercion (iv) No other FIR has been registered against any of abovesaid accused persons and (v) in the present case there is only one victim/complainant namely Amar Singh.”

4. Mr. Atul Gaur, 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. Similarly 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.293 dated 25.11.2007, registered for the offences punishable under Sections 324, 148 and 149 of the IPC, at Police Station Division No.8, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

28.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No