

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

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CRM-M-31769-2020(O&M)
Date of Decision : September 22, 2022

RAM DEV AND ORS

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

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CRM-M-31952-2020(O&M)

SATNAM SINGH AND ORS

.....Petitioners

VERSUS

STATE OF PUNJAB AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gurpreet Jaiya, Advocate
for the petitioners in CRM-M-31769-2020 and
for respondents No.2 and 3 in CRM-M-31952-2020.

Mr. Ravi Gakhar, Advocate
for the petitioners in CRM-M-31952-2020 and
for respondent No.2 in CRM-M-31769-2020.

Mr. Madhur Sharma, AAG, Punjab.

PANKAJ JAIN. J. (Oral)

Both these petitions are for being taken up together as the same arise out of the version recorded in FIR no.44 dated 05.04.2019 under Sections 323, 506, 148, 149 of the IPC, with Section 452 thereof added subsequently registered at Police Station Vairo Ke, District Fazilka and cross version recorded in GD No.30 dated 5.4.2019 under Sections

324, 323, 148, 149 IPC, 325 IPC added lateron, Police Station Vairo Ke, District Fazilka on the basis of compromise.

2. On 8.10.2020, the following order was passed in CRM-M-31769-2020:-

“This petition has been filed seeking quashing of FIR no.44, dated 05.04.2019, registered at Police Station Vairo Ke, District Fazilka, alleging therein the commission of offences punishable under Sections 323, 504, 148, 149 of the IPC, with Section 452 thereof added subsequently in the FIR, (as also all other subsequent proceedings arising therefrom), on the basis of a compromise arrived at between the petitioners and respondent no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion is issued to the respondents, with Mr.Ramdeep Partap Singh, learned DAG, Punjab, accepting notice on behalf of respondent no.1, on the asking of the court, with Mr. Ravi Ghakhar, Advocate, appearing and accepting notice on behalf of respondent no.2.

He does not deny the factum of the compromise reached between the parties.

Adjourned to 08.12.2020.

In the meanwhile, the petitioners, as also respondent no.2 would appear before the learned trial Court up to 09.11.2020 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date

of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners.”

On 12.10.2020, the following order was passed in CRM-M-31952-2020:-

“This petition has been filed seeking quashing of the cross version to FIR no.44, dated 05.04.2019, with the cross version bearing G.D.No. 30 dated 05.04.2019, registered for the alleged commission of offences punishable under Sections 323, 324, 148, 149 (with Section 325 added later), at Police Station Vairoke, District Fazilka, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondents no.2 and 3. A copy of the compromise deed has been annexed as Annexure P-3 with the petition.

Learned counsel for the petitioners submits that in fact a petition seeking quashing of the FIR has also been filed, bearing CRM-M-31769 of 2020, in which notice of motion was issued on 08.10.2020, with the parties therein directed to record their statements in respect of the compromise reached, before the learned Ilaqa Magistrate.

Notice of motion.

On the asking of the Court, Mr. Amit Mehta, Sr. DAG, Punjab, accepts notice on behalf of respondent no.1, with Mr. Gurpreet Jayia, Advocate, appearing for respondents no.2 and 3 and accepting notice on their behalf.

He does not deny the factum of compromise.

A copy of the petition be handed to each of them during the course of the day.

Adjourned to 08.12.2020.

In the meanwhile, the petitioners, as also respondents no.2 and 3, would appear before the learned Area Magistrate/trial Court (as the case may be) up to 09.11.2020 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners.”

3. Pursuant to the aforesaid order, report from learned Judicial Magistrate 1st Class, Jalalabad(W) dated 18.7.2022 has been received, which is taken on record. As per the report, the trial Court has

recorded as follows:-

“However, with the intervention of relatives and respectable persons of the locality, they have already compromised the matter. He had put his signatures on compromise deed. Statement of complainant as well as other accused, with regard to compromise, have already been recorded on 25.8.2021. However, at that time he was not present. Later on, he had submitted a duly sworn affidavit dated 5.4.2022 before Hon'ble High Court with regard to compromise effected between the parties. The contents of the said affidavit are found to be true and correct. It also bears his signatures. He has given the said affidavit voluntarily. Now he has no grievance against the complainant party. He was identified by Sh. Harmeet Singh Mujedia, Advocate.

In view of the aforesaid statement of Fariyad, it is submitted that the compromise arrived at between the parties is voluntary and without any pressure or threat. The affidavit in question is found to be genuine one.”

4. Mr. Gurpreet Jaiya, Advocate appears for respondents No.2 and 3 in CRM-M-31952-2020 and Mr. Ravi Gakhar, Advocate appears for respondent No.2 in CRM-M-31769-2020 and admit the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioner 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.44 dated 05.04.2019 under Sections 323, 506, 148, 149 of the IPC, with Section

452 thereof added subsequently registered at Police Station Vairo Ke, District Fazilka and cross version recorded in GD No.30 dated 5.4.2019 under Sections 324, 323, 148, 149 IPC, 325 IPC added lateron, Police Station Vairo Ke, District Fazilka and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

September 22, 2022
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No