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

CRM-M-38122-2021

Date of decision : 14.12.2022

ASI YOGESH AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Nitish Sharma, Advocate
for the petitioners.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Aditya Yadav, Advocate
for the complainant/respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.471, dated 25.06.2021 registered for the offences punishable under Sections 116, 306, 153, 193, 468 and 469 of the IPC and Section 54 of Haryana Police Act, 2008, at Police Station City Narnaul (Annexure P-1) on the basis of compromise.

2. Counsels are *ad idem* that none has committed suicide in the present case and thus, offence punishable under Section 306 IPC which also finds mention in FIR can be axiomatically said to be not made out at all.

3. On 15.09.2022, the following order was passed :-

“On oral prayer made by counsel for the petitioner 'head note' and the 'prayer clause' is ordered to be amended.

As pointed out by counsel for the State, FIR has been registered for offences punishable under Sections 306, 116, 153, 193, 468 and 469 of IPC read with Section 54 of Haryana Police Act.

Now the head note will read as under:-

“Petition under Section 482 Cr.P.C. for quashing of FIR No.471 dated 25.06.2021, under Sections 116, 306, 153, 193, 468 and 469 IPC & Section 54 of Haryana Police Act, 2008, registered at Police Station : City Narnaul; Annexure P-1.”

Similarly prayer clause shall also be amended.

Registry is directed to carry out necessary changes.

The parties shall appear before the trial Court on the next date of hearing which is stated to be 20.09.2022, to get their statements recorded.

On their doing so, the learned Illaqa Magistrate/trial Court 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 is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

List on 14.12.2022.

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 Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter. ”

3. Pursuant to the aforesaid order, report from Duty/Addl.

Sessions Judge, Narnaul dated 26.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“It is pertinent to mention here that statements referred to above have been voluntary made by the parties and the authorized person of the police department without any coercion or undue influence which have been genuinely suffered by them as the matter has been compromised between them in order to keep and maintain peace and harmony in the society.”

4. Ld. Counsel appearing for 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.

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.471, dated 25.06.2021 registered for the offences punishable under Sections 116, 306, 153, 193, 468 and 469 of the IPC and Section 54 of Haryana Police Act, 2008, at Police Station City Narnaul (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

December 14, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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