

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38873-2021

Date of decision : 20.09.2022

Ajaib Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. G.S. Hayer, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Salinder Kumar Saini, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.52 dated 16.06.2020, registered for the offences punishable under Sections 120-B and 420 of IPC, on the basis of compromise (Annexure P-2).

2. On 20.09.2021, the following order was passed:-

Case heard by video conference.

By this petition, the petitioners seek quashing of FIR No.52, dated 16.06.2020, registered at Police Station City Zira, District Ferozepur, alleging therein the commission of the offences punishable under Sections 120-B and 420 of the IPC, as also all other subsequent proceedings arising therefrom, on the basis of a compromise (Annexure P-2), arrived at between the petitioners and respondent No.2.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Ramdeep Pratap Singh, DAG, Punjab, accepts notice on behalf of respondent-State.

A copy of the petition be e-mailed to him today itself by learned counsel for the petitioners. Respondents no.2 be served by normal process.

Adjourned to 16.11.2021.

In the meanwhile, the petitioners, as also respondents No.2 would appear before the learned Area Magistrate/trial court (as the case may be) up to 09.11.2021 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.

Learned counsel for the petitioner submits that petitioners no. 3 & 4 are residing in the USA and therefore they may be allowed to record their statements in terms of the compromise through video conferencing. Subject to the complainant actually identifying them before the trial court, and obviously subject to that court having the facility of video conferencing, the request is allowed.”

3. Pursuant to the aforesaid order, report from JMIC, Zira dated 08.11.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

4. After going through the statements of the parties and on asking the parties, it is crystallized that the compromise has been arrived at genuinely and is made voluntarily without any pressure or coercion.

5. Affected persons: Ajaib Singh son of Amar Singh, resident of village Botian Wala, Tehsil Zira is complainant/injured in the said FIR, whereas, Aaib Singh son of Amar Singh, resident of village Gajjan Wala, Tehsil Baghpurana, District Moga, Jaswinder Kaur wife of Ajaib Singh, resident of village Gajjan Wala, Tehsil Baghapurana, District Moga, Hakam Singh Dhaliwal son of Mohinder Singh, resident of village Sandey Hasham, PS Kulgarhi, District Ferozepur and Pritpal Kaur daughter of Ajaib Singh, resident of village Gajjan Wala, Tehsil Baghapuran, District Moga have been arrayed as accused in the above mentioned FIR.

6. As per statement of Investigating Officer SI Kulwinder Kaur No.23/RRT the present FIR was registered on the statement of complainant Basant Singh son of Amar Singh, resident of village Botian Wala, Tehsil Zira, District Ferozepur against accused Ajaib Singh, Jaswinder Kaur, Hakam Singh Dhaliwal and Manpreet Kaur. Further as per the statement of IO ASI Shamsheer Singh no other person was nominated in the present FIR during investigation as accused. No accused was declared proclaimed offender.”

4. Mr. Salinder Kumar Saini, 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 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.52 dated 16.06.2020, registered for the offences punishable under Sections 120-B and 420 of IPC and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

20.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No