

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

CRM-M No.35312 of 2022

Date of decision : 28.10.2022

Rahul Gupta

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Madhur Sharma, AAG, Punjab for respondent No.1-State.

Ms. Pratula Sethi, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0177, dated 22.07.2022 registered for the offences punishable under Sections 420, 465, 467, 468, 471 of the IPC, 1860 at Police Station Civil Lines Bathinda, District Bhatinda (Annexure P-1) on the basis of compromise.

2. On 09.08.2022, the following order was passed :-

“The petitioner has approached this Court under Section 482 of the Code of Criminal Procedure for seeking quashing of case bearing FIR No. 0177 dated 22.07.2022 under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code registered at Police Station Civil Lines Bathinda, District Bathinda and all consequential proceedings arising therefrom on the basis of compromise dated 02.08.2022 (Annexure P-2) entered into 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.

Ms. Arti Kaur, Advocate, appears on behalf of respondent No.2 and admits the execution of compromise (Annexure P-2).

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 15.09.2022 or on any other date as convenient to the Court.

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; and
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 28.10.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.”

3. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Bathinda dated 23.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“As per the directions of Hon'ble High Court, the report is as under :

1. In view of the statement of the parties, only one accused i.e. Rahul Gupta son of Ashok Gupta has been arrayed as accused in the present case FIR.
2. In view of the statement of parties, accused has not been declared proclaimed offender.
3. As per record, challan in the present case has not been presented yet.
4. In view of the statements of parties, the statements of parties appears to be bona fide. The statements have been suffered by the parties are genuine, voluntary and out of

their free will and same are not the result of any pressure, undue influence or coercion in any manner.”

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 petitioner 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.0177, dated 22.07.2022 registered for the offences punishable under Sections 420, 465, 467, 468, 471 of the IPC, 1860 at Police Station Civil Lines Bathinda, District Bhatinda (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 28, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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