

(245) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35646-2022

Date of Decision:15.12.2022

Sukhbir Singh Maini and another ... Petitioners

Vs.

State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. P.B.S. Goraya, Advocate for the petitioners.

Mr. Jaiteshwar Singh, A.A.G. Punjab.

Mr. H.S. Deol, Advocate for respondent No.2.

PANKAJ JAIN , J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.35 dated 20.03.2022 for offence punishable under Sections 379-B IPC registered at Police Station Chohla Sahib, District Tarn Taran, on the basis of compromise.

On 10.08.2022, the following order was passed:

“Instant petition has been filed for seeking quashing of FIR No.35 dated 20.03.2022 under Sections 379-B IPC registered at Police Station, Chohla Sahib, District Tarn Taran and all consequential proceedings arising therefrom on the basis of compromise dated 25.03.2022 (Annexure P-2).

Notice of motion.

Ms. Amarjit Kaur Khurana, DAG appears and accepts notice on behalf of respondent-State.

Mr. H.S. Deol, Advocate, appears on behalf of respondent No.2 and admits the execution of compromise effected between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 12.09.2022 or any other date convenient to the Illaqa Magistrate/trial Courtt for recording their statements as to genuineness of the compromise executed between the parties.

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;*
- (iv) Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- (v) Whether the compromise has been effected with all the accused persons and with all the complainant(s)/injured.*

To come up for further consideration on 20.10.2022.

Response, if any, may also be filed by the State on or before the adjourned date.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Tarn Taran dated 07.09.2022 has been received, which is taken on record.

As per the report, the trial Court has recorded as follows:

“In view thereof, the report is submitted as follows:

- 1. As per the statement of IO ASI Hardial Singh 336/TT (Posted at Police Station Chohla Sahib, Tarn Tarn, Sukhbir Singh @ Maini and Gurinder Singh are arrayed as accused in this FIR.*
- 2. As per the statement of IO ASI Hardial Singh 336/TT (Posted at Police Station Chohla Sahib, Tarn Tarn, no accused was declared Proclaimed offender in this case.*
- 3. As per the statement of IO ASI Hardial Singh 336/TT in this case final report has not been presented by the police till date*
- 4. The compromise between the parties to the petition is genuine, voluntarily and out of free will.*
- 5. As per the statement of IO ASI Hardial Singh 336/TT, In this case Sukhbir Singh and Gurinder Singh are registered as accused in this FIR. It is further submitted that as per the statements of the complainant and both accused the compromise has been effected between them.”*

Learned counsel appearing on behalf of 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.

Similarly learned State counsel has stated not objection in case the

I have heard learned counsel for the parties and have carefully gone through the records of the case.

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 and others vs. State of Punjab and 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 the 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.

Thus, keeping in view the aforesaid facts and circumstances, this Court is of the consider 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.35 dated 20.03.2022 for offence punishable under Sections 379-B IPC registered at Police Station Chohla Sahib, District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.12.2022
rajeev

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**