

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36041-2022

Date of decision : 12.12.2022

Bijender Singh Lather

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Samir Rathaur, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Harkaran Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.161 dated 19.06.2020, registered for offences punishable under Sections 406, 420 and 506 of IPC at Police Station Sector-6, Bahadurgarh, District Jhajjar, on the basis of compromise/Memorandum of Understanding dated 16.04.2022 (Annexure P-2)

2. On 17.08.2022, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.161 dated 19.06.2020, registered for the offences punishable under Sections 406, 420, 506 of the Indian Penal Code, at Police Station Sector-6, Bahadurgarh, District Jhajjar, Haryana.

Learned Counsel for the petitioner contends that the matter already stands compromised vide Compromise/MOU dated 16.04.2022 (Annexure P-2).

Notice of motion for 14.09.2022.

On the asking of the Court, Mr. Sumit Jain, Addl. Advocate General, Haryana appears and accepts notice on behalf of respondent No.1- State.

Mr. Sachin Kalia, Advocate appears and accepts notice on behalf of respondent No.2 and admits the factum of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/Duty Magistrate on 30.08.2022. On their doing so, the learned Illaqa Magistrate/Duty Magistrate 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.

A copy of the report be also sent through fax 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/Duty Magistrate 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 Civil Judge (Jr. Division), Bahadurgarh dated 08.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

(1) As per Investigating Officer, SI Ranbir Singh, 676/SPT, Economic Offence Wing Jhajjar, five accused persons namely Bijender, Sajjan Singh Beniwal, Ram Niwas Lather, Joginder Singh Lather, Bhawna Lather were arraigned in present case FIR No.161 dated 19.06.2020, Under Section 406, 420, 506 of IPC and P.S. Sector-6, Bahadurgarh.

(2) It is further submitted that no accused have been declared as proclaimed person in this case.

(3) The name of the complainant in this case is Jitender Kumar and he has appeared before the Court and made his statement dated 30.08.2022 in support of compromise with accused person. As per the respective statements, parties have compromised the matter out of their sweet will and the compromise is genuine, voluntarily and without any coercion or undue influence.

(4) Pending cases:-

Accused Joginder Lather

1. FIR No. 59/19 under Sections 420,406,120B of IPC, EOW New Delhi under trial.
2. FIR No. 160 dated 19.06.2020 under Sections 406,420,506 of IPC, PS Sector-6 Bahadurgarh under investigation.
3. FIR No. 25 dated 01.02.2021 under Sections 406,409 of IPC, PS. Sector-6 Bahadurgarh under investigation.
- 4, FIR No. 112 dated 16.04.2021 under Sections 406,420,467,471,468,120B of IPC, PS. Sector-6

Bahadurgarh under investigation.

5. FIR No. 188 dated 12.06.2021 under Sections 406, 409 of IPC, PS. Sector-6 Bahadurgarh under investigation.
6. FIR No. 279 dated 20.06.2021 under Sections 420,406,409,506 of IPC, PS. Sector-6 Bahadurgarh under investigation.
7. FIR No. 183 dated 04.06.2022 under Sections 418,420,467,471,120-B of IPC, PS. Sector-6 Bahadurgarh under investigation.

Accused Bijender Singh Lather

1. FIR No. 59/19 under Sections 420,406,120B of IPC, EOW New Delhi under trial.
2. FIR No. 160 dated 19.06.2020 under Sections 406,420,506 of IPC, PS Sector-6 Bahadurgarh under investigation.
3. FIR No. 25 dated 01.02.2021 under Sections 406,409 of IPC, PS. Sector-6 Bahadurgarh under investigation.
4. FIR No. 88 dated 12.06.2021 under Sections 406,409 of IPC, PS. Sector-6 Bahadurgarh under investigation.
5. FIR No. 279 dated 20.06.2021 under Sections 420,406,409,506 of IPC, PS. Sector-6 Bahadurgarh under investigation.

Accused Sajjan Singh Beniwal

1. FIR No. 279 dated 20.06.2021 under Sections 420,406,409,506 of IPC PS. Sector-6 Bahadurgarh under investigation.
2. FIR No. 59/19 under Sections 420,406,120B of IPC, EOW New Delhi under trial.
3. FIR No. 160 dated 19.06.2020 under Sections 406,420,506 of IPC, PS. Sector-6 Bahadurgarh under investigation.

Accused Bhawana Lather

1. FIR No. 59/19 under Sections 420,406, 120B of IPC, EOW New Delhi under trial
2. FIR No. 160 dated 19.06.2020 under Sections 406,420,506 of IPC, PS Sector-6 Bahadurgarh under investigation.

Accused Ram Niwas

1. FIR No. 59/19 under Sections 420,406, 120B of IPC, EOW New Delhi under trial.
2. FIR No. 160 dated 19.06.2020 under Sections 406,420,506 of IPC, PS. Sector-6 Bahadurgarh under investigation.
5. I.O clarified that there is only one complainant in the present FIR who is Jitender Kumar.”

4. The aforesaid report reveals that there are five accused persons namely Bijender, Sajjan Singh Beniwal, Ram Niwas Lather, Joginder Singh Lather and Bhawna Later. However, the compromise has only been effected with accused-petitioner Bijender Singh Lather.

5. Mr. Harkiran Singh, 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.

6. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

8. 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.

9. 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.

10. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Sajjan Singh Beniwal, Ram Niwas Lather, Joginder Singh Lather and Bhawna Later and it is only Bijender Singh Lather who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Bijender Singh Lather only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“XX XX XX

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.161 dated 19.06.2020, registered for offences punishable under Sections 406, 420 and 506 of IPC at Police Station Sector-6, Bahadurgarh, District Jhajjar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

12.12.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable : No