

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36836-2022

Date of decision : 28.09.2022

Satwinder Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Ghumman, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Sahil Bansal, Advocate
for respondents No.2 to 7.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.230 dated 15.11.2005, registered for the offences punishable under Sections 420, 447 and 511 of the IPC, at Police Station Phillaur, District Jalandhar, on the basis of compromise dated 22.05.2022 (Annexure P-2).

2. On 22.08.2022, 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.230 dated 15.11.2005, registered for offences punishable under Sections 420, 447, 511 of the Indian Penal Code, 1860 at Police Station Phillaur, District Jalandhar.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 22.05.2022 (Annexure P-2). He further brings to the notice of the Court that respondent No.4

is resident of England, who has been been impleaded through his Power of Attorney i.e. respondent No.3 and seeks permission that the statement of respondent No.4 be allowed to be recorded through his Power of Attorney.

Notice of motion for 28.09.2022.

On the asking of the Court, Mr. Mohinder S. Joshi, Addl. A.G., Punjab appears and accepts notice on behalf of respondent No.1-State and seeks time to complete instructions.

Mr. Sahil Bansal, Advocate appears and accepts notice on behalf of respondents No.2 to 7 and admits the fact of there being a compromise between the parties. He does not oppose the prayer made by the petitioner w.r.t. recording of the statement of respondent No.4 through his Attorney holder.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 08.09.2022. Respondent No.4, who is stated to be residing abroad, is at liberty to get his statement recorded through his Attorney holder.

On their doing so, the learned Trial Court/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 Trial Court/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 SDJM, Phillaur dated 26.09.2022 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 the statement of I.O. ASI Subash Chander No.698, P.S. Phillaur, in the present case there is only one accused, namely, Satwinder Singh is involved.

2. In the present case, no accused is declared as Proclaimed Offender.

3. In view of statements of both the parties compromise arrived between them appears to be bona fide and is not result of any pressure or coercion in any manner. The compromise effected between the parties appears to be genuine and valid.

4. As per the statement of IO accused Satwinder Singh is not involved in any other case, except the present case.

5. As per statement of IO, in the present FIR there are six victims/complainants, namely, Amarjit Singh, Baljit Singh, Satnam Singh, Manjit Kaur, Bhupinder Kaur and Narinder Kaur.”

4. Mr. Sahil Bansal, Advocate appears for respondents No.2 to 7 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.230 dated 15.11.2005, registered for the offences punishable under Sections 420, 447 and 511 of the IPC, at Police Station Phillaur, District Jalandhar, and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

28.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No