

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 15.12.2022

1. CRM-M-36553-2022

Sarif @ Mohammad Sharif and others Petitioners

versus

State of Punjab and others Respondents

2. CRM-M-37170-2022

Charan Singh and others Petitioners

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Prince Sharma, Advocate
for the petitioners in CRM-M-36553-2022 and
for respondents No.2 to 4 in CRM-M-37170-2022.

Mr. Jaiteshwar Singh, AAG, Punjab.

Mr. Jaspreet Cheema, Advocate
for the petitioners in CRM-M-37170-2022 and
for respondents No.2 to 6 in CRM-M-36553-2022

PANKAJ JAIN, J. (Oral)

By way of present petitions, the petitioners are seeking quashing of G.D. No.19 dated 06.03.2021, registered for the offences punishable under Sections 323, 324, 506, 148 and 149 of IPC and FIR No. 16 dated 03.03.2021, registered for the offences punishable under Sections 323, 506, 148 and 149 of IPC, at Police Station Jhabal, Tehsil & District Tarn Taran, on the basis of compromise dated 28.07.2022 (Annexure P-3).

2. These are matters arising out of version and cross-version.
3. On 18.08.2022, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.16 dated 3rd March, 2021, registered for offences punishable under Sections 323/506/148/149 of the Indian Penal Code, 1860 at Police Station Jhabal, Tehsil & District Tarn Taran, Punjab, and all subsequent proceedings arising thereto.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Compromise dated 28th July, 2022 (Annexure P-3).

Notice of motion for 20th October, 2022.

On the asking of the Court, Ms. Monika Jalota, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Shivam Kamboj, Advocate appears and accepts notice on behalf of respondents No.2 to 6 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 16th September, 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 Illaqa Magistrate 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.”

4. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Tarn Taran dated 21.09.2022 has been received, which is taken on record. As per the report w.r.t. CRM-M-36553-2022, the trial Court has recorded as follows:-

“xx xx xx

From the statements of the parties to the petition and Investigating Officer, the report is accordingly submitted as under:

1. As per the statement of Investigating Officer, there are sixteen persons, namely, Sarif Mohammad Sharif, Chamkaur Singh, Saraj Singh, Roshan @ Roshan Lal, Tarlochan Singh, Baba Satnam Singh @ Satnam Singh, Gopi @ Keemti Lal, Jeena Singh @ Jeouna, Jaimal Singh, Manohar Singh, Ninder Singh, Bagicha Singh, Hussain Singh, Koshalya, Gurmeet

Kaur and Davinder Kaur arrayed as accused in the First Information Report in question.

2. As per the statement of Investigating Officer, the accused have not been declared Proclaimed Offender.
3. As per the statement of Investigating Officer and parties to the petition, I am satisfied that the compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence.
4. As per the statement of Investigating Officer, the accused are not involved in any other case.
5. As per the statement of Investigating Officer, there are only five complainants victims, namely, Charan Singh, Bikramjit Singh @ Shatty, Davinder Singh @ Sunny, Tamana @ Tamana Kaur minor through her mother and natural guardian Ninder Kaur and Ninder Kaur in the First Information Report in question.”

5. Similarly, report w.r.t. CRM-M-37170-2022, it has been recorded as under:-

“xx xx xx

From the statements of the parties to the petition and Investigating Officer, the report is accordingly submitted as under:

1. As per the statement of Investigating Officer, there are ten persons, namely, Charan Singh, Bittu Singh @ Angrej

Singh, Baljit Kaur, Karan Singh @ Karandeep Singh, Prabh Singh @ Prabhdeep Singh, Dhanwant Singh, Davinder Singh @ Sunny, Bikramjit Singh @ Shetty, Ninder Kaur and Tamana @ Tamana Kaur (minor) daughter of Davinderjit Singh @ Dhanwant Singh arrayed as accused in the First Information Report in question.

2. As per the statement of Investigating Officer, the accused have not been declared Proclaimed Offender.
3. As per the statement of Investigating Officer and parties to the petition, I am satisfied that the compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence.
4. As per the statement of Investigating Officer, the accused are not involved in any other case.
5. As per the statement of the Investigating Officer, there are only three complainants victims, namely, Sachiar Kaur @ Sacharo, Chamkaur Singh and Satnam Singh in the First Information Report in question.”

6. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

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

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

9. 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.

10. 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/DDR/Cross case 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.

11. Consequently, the petitions are allowed. G.D. No.19 dated 06.03.2021, registered for the offences punishable under Sections 323, 324, 506, 148 and 149 of IPC and FIR No. 16 dated 03.03.2021, registered for the offences punishable under Sections 323, 506, 148 and 149 of IPC, at Police Station Jhabal, Tehsil & District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.12.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No