

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40456-2021
Date of decision : 11.10.2022

Sanjay @ Subhash and another Petitioners

versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Namit Khurana, Advocate
for the petitioners.

Mr. Rupinder Singh Jhand, Additional A.G., Haryana.

None for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.333 dated 06.06.2020, registered for the offence punishable under Sections 420, 406, 370, 506, 120-B IPC and Section 24 of Immigration Act, at Police Station Assandh, District Karnal, on the basis of compromise/settlement dated 19.08.2021 (Annexure P-2) .

2. On 29.09.2021, the following order was passed:-

Heard through video conferencing.

Prayer in this petition is for quashing of FIR No.333 dated 06.06.2020 under Sections 420, 406, 370, 506, 120-B IPC and Section 24 of Immigration Act registered at Police Station Assandh, District Karnal, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 19.08.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that FIR, Annexure P-1, is an outcome of some misunderstanding between the petitioners and private respondents, which has been settled by virtue of compromise, Annexure P-2. By referring to the allegations levelled in the FIR, he contends that offence under Section 370 IPC is not made out. He submits that compromise, Annexure P-2, has been effected between both the petitioners as well as the complainant and his son, and the third accused, namely, Sanjeev, has been found to be innocent during investigation. By referring to Para 06 of the petition, he submits that the petitioners have not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. Gurmeet Singh, AAG, Haryana, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. Upon instructions from SI Ramesh Chand, he has affirmed the fact that accused Sanjeev has been declared innocent but he submits that there are three more FIRs against petitioner No.2. Mr. Pardeep Panwar, Advocate accepts notice on behalf of the respondents No.2 and 3. He admits the factum of compromise effected between the parties.

Countering the submission made by State counsel, counsel for the petitioner submits that in all the other cases registered against petitioner No.2, petitions for quashing on the basis of compromise have been filed before this Court, which are pending.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 10.11.2021 or any date within fortnight thereafter as fixed by the trial court, for getting their

statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties.

5. whether any other criminal case is pending against the accused.

Report of Illaqa Magistrate/trial Court be awaited for 31.01.2022.”

3. Pursuant to the aforesaid order, report from SDJM, Assand dated 15.12.2021 has been received, which is taken on record. As per the report of the trial Court, the compromise effected between the parties is voluntarily and without any pressure or influence.

4. Counsel for the State are reiterates the contends of the report to submit that there are three more FIRs registered against the petitioners. Counsel for the petitioners in response thereto submits that the petitioners have compromised with the complainant in all the three cases. He further submits that pursuant to such compromise, one of the FIR No.121 dated 25.06.2020, registered at Police Station Dhand, Kaithal already stands quashed by this Court.

5. Respondents No.2 and 3 is not represented. Even though the complainant Jagdish alongwith his son Manoj appeared before the concerned Court and deposed in favour of 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.333 dated 06.06.2020, registered for the offence punishable under Sections 420, 406, 370, 506, 120-B IPC and Section 24 of Immigration Act, at Police Station Assandh, District Karnal, and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

11.10.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No