

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

253

CRM-M-37116-2022 (O&M)
Date of decision: 30.09.2022

DHARAMVEER SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.S. Sandhu, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG Punjab.

Mr. Rajdeep Singh Gill, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0032 dated 26.04.2022 registered for the offence punishable under Sections 379-B, 336 and 323 IPC and Sections 25 and 27 of the Arms Act at Police Station City Morinda, District Roopnagar, Punjab on the basis of compromise dated 09.05.2022 (Annexure P-2).

2. Learned counsel for the petitioners submits that there is no allegation which would constitute offence under Section 25 of the Arms Act. Moreover, it is case of no injury.

3. 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 petitioners seeking quashing of FIR No.0032 dated 26.04.2022, registered for offences punishable under Sections 379-B, 336, 323 of the Indian Penal Code and Sections 25, 27 of the Arms Act at Police Station City Morinda, District

Roopnagar, Punjab, and all subsequent proceedings thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide Agreement/Compromise dated 9th of May, 2022 (Annexure P-2).

Notice of motion for 30th September, 2022.

On the asking of the Court, Mr. Mohinder S. Joshi, Addl. Advocate General, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Gagandeep S. Gill, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact 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 30th August, 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

Illaq Magistrate/DutyMagistrate 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 Judicial Magistrate First Class, Rupnagar dated 14.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1) Three accused persons, namely, Dharamvir Singh, Sharandeep Singh @Sunny and Harpreet Singh @Happy are party to the compromise.

(ii) Accused were never declared as proclaimed offender.

(iii) The compromise is genuine, voluntarily and without any coercion or undue influence.

(iv) Only accused Harpreet Singh is involved in two other cases i.e. FIR No.5 dated 20.01.2022 U/s 25-54-59 Arms Act, Section 336 IPC, PS Khamanon and FIR No.83 dated 09.05.2022, U/s 25-54-59 Arms Act, PS Fatehgarh Sahib.

(v) There is only one complainant/victim in the FIR.”

5. Mr. Rajdeep Singh Gill, Advocat 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 petitioners 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. Consequently, the petition is allowed. FIR No.0032 dated 26.04.2022 registered for the offence punishable under Sections 379-B, 336 and 323 IPC and Sections 25 and 27 of the Arms Act at Police Station City Morinda, District Roopnagar, Punjab and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

September 30, 2022

S.Sharma(syr)

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*