

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32456-2019

Date of decision : 12.12.2022

Lalita @ Simmi and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Sohrab Dhanda, Advocate with
Mr. Amandeep Singh Manaise, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Gurjinder Singh, Advocate for
Ms. Harkiran Kaur, Advocate
for respondents No.2 to 5.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.120 dated 21.07.2018, registered for offences punishable under Sections 323, 34, 452 and 506 of IPC, at Police Station Saha, District Ambala on the basis of compromise deed dated 09.04.2019 (Annexure P-2).

2. On 20.04.2022, the following order was passed:-

1. Ms. Harkiran Kaur, Advocate puts his appearance on behalf of respondents No.2 to 5, by filing her Power of Attorney in the Court today.

2. Before proceeding to quash FIR No.120 dated 21.07.2018, at Police Station Saha, District Ambala, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after summoning the petitioners, and, respondents No.2 to 5, and, after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the

authenticity of the compromise drawn amongst them, as embodied in Annexure P-2, to make a report with respect to the compromise (supra).

3. The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; and (c) whether the prosecution evidence has commenced; (d) whether the compromise drawn amongst the parties concerned, covers all the concerned, in the penal transaction concerned.

4. The afore made report be ensured to be transmitted to this Court within three weeks.

5. In the meantime, the learned trial Judge concerned, may not draw further proceedings, as arises from FIR No.120 dated 21.07.2018, lodged at Police Station Saha, District Ambala.

6. List on 28.07.2022.”

3. Pursuant to the aforesaid order, report from JMIC Ambala dated 13.05.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

The statements of complainant/respondent No.2 Prem Nath Gupta s/o Banrasi Dass along-with respondents No.4 and 5 namely Shashi Gupta, Saurav Gupta and Gaurav Gupta and accused namely Lalita alias Simmi, Sandeep Kumar and Rajan were recorded by the undersigned wherein they have stated that they have entered into a compromise without any undue influence or pressure. It is further stated that respondent No.3 Shashi Gupta had died on 16.06.2020.

Further, statement of IO recorded to the effect that the present challan was prepared by SI Shyam Lal

and the same was registered by Inspector/SHO Munish Kumar, P.S. Saha, District Ambala against accused namely Lalita alias Simmi, Sandeep Kumar and Rajan, on 28.11.2018 and was produced before the Court. No proceedings to declare the accused as Proclaimed Offender is pending and the accused has not been declared as Proclaimed Offender.

The undersigned is satisfied that the case titled as "State Vs. Lalita alias Simmi and others" FIR No. 120 dated 21.07.2018, under Sections 323, 452, 506 of IPC read with Section 34 of IPC, 1860 was registered in P.S. Saha, Ambala wherein, the parties approached the Hon'ble High Court for quashing of the FIR on the basis of compromise, which has been voluntarily compromised between complainant Prem Nath and accused Lalita alias Simmi. Sandeep Kumar and Rajan."

4. Mr. Gurjinder Singh, Advocate for Ms. Harkiran Kaur, Advocate appears for respondents No.2 to 5 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.

5. 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.120 dated 21.07.2018, registered for offences punishable under Sections 323, 34, 452 and 506 of IPC, at Police Station Saha, District Ambala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

12.12.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No