

(237) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42269-2021

Date of Decision:15.12.2022

Sahil

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vinod Bhardwaj, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, D.A.G. Haryana.

Mr. Naresh Kaushik, Advocate for respondent No.2.

PANKAJ JAIN , J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.664 dated 17.12.2018 for offence punishable under Sections 323, 34, 506 IPC (Section 326 IPC added later on) registered at Police Station Pundri, District Kaithal, on the basis of compromise.

On 07.10.2021, the following order was passed:

“The case has been taken up for hearing through video conferencing. Prayer made in this petition is for quashing of FIR as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 10.01.2022.

At this stage, Mr. Naresh Kaushik, Advocate appears on behalf of respondent No.2.

In the meanwhile, parties would appear before this Illaqa Magistrate on 26.10.2021 for recording their statements. The concerned court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a

report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case his/their status of being proclaimed offender/person.”

Pursuant to the aforesaid order, report from District and Sessions Judge, Kaithal dated 13.01.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:

“(i) There is no other inquiry pending against child-in-conflict with law except the present one bearing FIR No.664 dated 17.12.2018. He is not involved in any other offence.

(ii) In the present FIR No.664 dated 17.12.2018, allegations were levelled against Sahil son of Bhale Ram, Usha widow of Bhale Ram and Nisha daughter of Bhale Ram. During course of investigation, Nisha was found innocent. Challan was submitted before the court against accused Usha only and she has been acquitted by the court of Shri Arun Dabla, the then learned Judicial Magistrate First Class, Kaithal vide judgment and order dated 15.01.2020. Separate final inquiry report against child-in-conflict with law was submitted before the Board.

(iii) As per record and report of concerned Station House Officer neither child-in-conflict with law nor accused Usha has been declared proclaimed person/offender. Nisha daughter of deceased Bhale Ram, who was found innocent has also not been declared proclaimed person/offender in any case.”

Learned counsel appearing on behalf of respondent No.2 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.

Similarly learned State counsel has stated not objection in case the FIR is quashed based upon the compromise.

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

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 and others vs. State of Punjab and 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 the 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.

Thus, keeping in view the aforesaid facts and circumstances, this Court is of the consider 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.664 dated 17.12.2018 for offence punishable under Sections 323, 34, 506 IPC (Section 326 IPC added later on) registered at Police Station Pundri, District Kaithal and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.12.2022
rajeev

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**