

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38413-2022

Date of decision : 09.11.2022

Chamkaur Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

Ms. Tanish, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.121 dated 16.08.2022, registered for the offences punishable under Sections 353, 186, 511 and 506 of IPC, at Police Station City Rampura, District Bathinda, on the basis of compromise dated 18.08.2022 (Annexure P-2).

2. Counsel for the petitioner relies on CRM-M-31765-2012 dated 01.05.2013 to submit that offence punishable under Section 186 can also be quashed recognizing the compromise between the accused and the complainant in exercise of the jurisdiction vested under Section 482 Cr.P.C. Same is the view held by Coordinate Benches in CRM-M-6597-2018 dated 08.08.2018 and CRM-M-19665-2017 dated 24.07.2017.

3. On 26.08.2022, the following order was passed:-

The petitioner has filed present petition under
Section 482 Cr.P.C. for quashing of FIR No. 121,

dated 16.08.2022, under Sections 353, 186, 511, 506 of IPC, registered at Police Station City Rampura, District Bathinda (Annexure P-1), and all the consequential proceedings arising therefrom, on the basis of the compromise dated 18.08.2022 (Annexure P-2), effected between the parties.

Notice of motion.

On the asking of the Court, Mr. J.S. Arora, DAG, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State.

Ms. Tanisha, Advocate, appears on behalf of respondent No.2, submits her vakalatnama and admits execution of the compromise-dated 18.08.2022 (Annexure P-2). Vakalatnama filed on behalf of respondent No.2 is taken on record, subject to all just exceptions.

Both the parties are directed to appear on 07.09.2022, before the learned Trial Court/Illaq Magistrate, who shall record their respective statements with regard to the compromise and submit its detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. Total number of persons arrayed as accused in the case;
- ii. Whether all the accused and complainant/victims are party to compromise;
- iii. Whether any accused has been declared as a proclaimed offender or any such proceedings have been initiated or pending decision;
- iv. Stage of the trial/proceedings; and
- v. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 09.11.2022, for further consideration.

Reply, if any, by the respondent State be filed on or before the next date of hearing.”

4. Pursuant to the aforesaid order, report from SDJM, Phul dated 28.09.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. As per the statement of HC Ranjit Singh No.169/BTI, P.S. City Rampura, District Bathinda, there is only one accused namely Chamkaur Singh.

2. As per the statement of HC Ranjit Singh No.169/BTI, P.S. City Rampura, District Bathinda, there is only one accused namely Chamkaur Singh in the present case and both of them appeared in the court and suffered a statement with regard to the compromise.

3. As per the statement of HC Ranjit Singh No.169/BTI, PS. City Rampura, District Bathinda, accused Chamkaur Singh has not been declared proclaimed offender in the abovesaid FIR or in any other case and no such proceedings against him were initiated or pending decision.

4. As per the statement of HC Ranjit Singh No.169/BTI, P.S. City Rampura, District Bathinda, challan in this case has not yet been presented and the accused joined the proceedings of the case by orders of the Hon'ble High Court.

5. The compromise effected between the parties appears to be genuine, out of their free will, without any external pressure or coercion. Statements of parties were duly recorded before the undersigned and they were duly identified by their respective counsel.”

5. Ms. Tanisha, Advocate appears for respondent No.2 and admits the fact of parties having compromised and states that she has no

objection in case the FIR and all proceedings subsequent thereto against the petitioner 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.121 dated 16.08.2022, registered for the offences punishable under Sections 353, 186, 511 and 506 of IPC, at Police Station City Rampura, District Bathinda and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

09.11.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No