

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42272-2021

Date of decision : 10.10.2022

Raj Goyal and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioners.

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

Mr. A.S. Barnala, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0030 dated 02.11.2020, registered for the offence punishable under Section 406 of IPC, at Police Station NRI SAS Nagar, Mohali, on the basis of panchayati compromise dated 29.09.2021 (Annexure P-2).

2. On 07.10.2021, the following order was passed:-

“Present petition has been filed under Section 482 Cr.P.C. seeking quashing of case FIR No. 0030 dated 02.11.2020, under Section 406 registered at Police Station NRI SAS Nagar, Mohali and all other subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

Mr. Luvinder Sofat, AAG, Punjab accepts notice on behalf of respondent No.1 and Mr. Anutej S. Barnala, Advocate accepts notice on behalf of respondent No.2.

Parties may appear before learned trial Court/Illaqa Magistrate concerned on 30.11.2021 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of same to this Court before the next date of hearing alongwith its report:

- i) regarding genuiness and voluntary nature of compromise;
- ii) whether all accused/petitioners are appearing before the Court or are on bail; and
- iii) whether any other proceeding is pending against the accused/petitioners.

Adjourned to 28.01.2022 .”

3. Pursuant to the aforesaid order, report from JMIC, SAS Nagar dated 01.12.2021 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 those statements of the parties to the case, this Court is of the considered view and has acquired its satisfaction that the parties have arrived at a compromise with their free consent and voluntarily and genuinely.

2. There are only two accused in this case and both are appeared before the Court and as per the statement of ASI Balwinder Singh, both the accused are on bail.

3. As per the statement of ASI Balwinder Singh, no other proceedings is pending against the above said accused except this case.”

4. Mr. A.S. Barnala, Advocate appears 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.

5. Similarly 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.0030 dated 02.11.2020, registered for the offence punishable under Section 406 of IPC, at Police Station NRI SAS Nagar, Mohali and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

10.10.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No