

252-2

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38964-2022

Date of decision : 14.12.2022

JANAK RAJ AND ANOTHER

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Karan Sharma, Advocate for
Mr. Jatinder Singh, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, Asstt. Advocate General, Punjab
for respondent No.1-State.

Mr. Sandeep Sharma, Advocate for
Mr. Vinay Kumar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of DDR No.29 dated 01.11.2017, registered under Sections 323, 324, 326 and 34 of IPC in FIR No.162 dated 28.10.2017, registered for offences punishable under Sections 323 and 324 of IPC at Police Station City Batala, District Batala (Annexure P-1) on the basis of compromise.

2. On 01.09.2022, 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 facing

trial in DDR No.29 dated 01.11.2017, registered under Sections 323, 324, 326 and 34 of IPC in FIR No.162 dated 28.10.2017, registered for offences punishable under Sections 323 and 324 of IPC at Police Station City Batala, District Batala.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise deed dated 05.08.2022 (Annexure P-2).

Notice of motion for **14.12.2022**.

On the asking of the Court, Mr. Gurdarshan Singh Sidhu, AAG, Punjab, who is present in Court accepts notice on behalf of the State.

Mr. Vinay Kumar, Advocate appears for respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **01.10.2022**.

On their doing so, the learned Illaqa Magistrate/trial Court 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 DDR.
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 trial Court 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 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 Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter. ”

3. Pursuant to the aforesaid order, report from JMIC, Batala, dated 19.10.2022 has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“1)Number of persons arrayed as accused in the DDR.

On this count, it was submitted by the investigating officer that in the present FIR there are only two accused i.e. Janak Raj son of Bakshi Ram and Arun son of Janak Raj, the present petitioners.

2)Whether any accused is a proclaimed offender?

According to the statements of the investigating officer, accused have not been declared as proclaimed offender/persons.

3)Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Petitioners/accused Janak Raj son of Bakshi Ram and Arun son of Janak Raj and complainant/respondent no. 2 Vishavjit Singh appeared in the Court along with their respective Advocates and stated in unison that they had entered into a compromise without any extraneous influence, coercion and on their own volition. The complainant/respondent no. 2 Vishavjit Singh stated in specific terms that he had no objection if the quashing proceedings filed by the petitioners/accused are accepted. Both the parties were identified by their respective Advocates.

The respondent/complainant and petitioners/accused were asked to show their identity cards and photocopies of the same were taken on record (Photocopies of identity cards and statements attached herewith).

Therefore, from the statements of the parties, it appears that compromise effected into between the parties is genuine, voluntary and out of free will.

4)Whether the accused are involved in any other case or not?

According to the statement of investigating officer, accused are not involved in any other FIR.

5)Number of victims/complainants in the present DDR.

According to the statement of the investigating officer, there is only one victim/complainant namely Vishavjit Singh son of Ajay Singh Thakur.”

4. Ld. Counsel appearing for 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.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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. DDR No.29 dated 01.11.2017, registered under Sections 323, 324, 326 and 34 of IPC in FIR No.162 dated 28.10.2017, registered for offences punishable under Sections 323 and 324 of IPC at Police Station City Batala, District Batala (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

December 14, 2022

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No