

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38585-2022

Date of decision : 29.11.2022

Gurjinder Singh @ Ginda and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Yadav, Advocate for
Mr. G.S. Bawa, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. G.S. Randhawa, Advocate for
Mr. D.S. Bartia, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0134 dated 11.07.2019, registered for the offences punishable under Sections 452, 427, 506 and 34 of IPC at Police Station Chattiwind, District Amritsar Rural, on the basis of compromise dated 20.07.2022 (Annexure P-2).

2. On 29.08.2022, 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 FIR No.134 dated 11.07.2019, registered for offences punishable under Sections 452, 427, 506 and 34 IPC at Police Station Chatiwind, District Amritsar Rural.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 20.07.2022 (Annexure P-2).

Mr. Deepak Kumar Bartia, 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 **15.09.2022**.

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 FIR.
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.

List on **18.10.2022**.

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 JMJC, Amritsar dated 24.11.2022 has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

As per their statement, they have effected the compromise with the complainant Yogesh Kumar and Renu Suri voluntarily and without any misrepresentation, threat, coercion or duress.

2. Statement of the complainant namely Yogesh Kumar and Renu Suri have also recorded wherein she stated that compromise has been effected with the accused namely Gurjeet Singh, Jugraj Singh, Sehajpreet Singh, Harinder Singh and Gurjinder Singh voluntarily and without any misrepresentation, threat, coercion or duress.

3. Statement of investigating officer ASI Malwinder Singh No. 1033, presently posted at PS Women-Chatiwind, Amritsar has also been recorded to the effect that

(a) FIR was registered by Yogesh Kumar and Renu Suri complainant against the accused Gurjeet Singh, Jugraj Singh, Sehajpreet Singh, Harinder Singh and Gurjinder Singh. He further stated that except above said accused persons, three other accused namely Harman Singh, Husanpreet Singh and Shera were also involved in present FIR but they are not arrested till date.

(b) None of the accused person has never been declared as proclaimed person in the present FIR.

(c) Except present FIR, the parties are not involved in any other Criminal case.”

4. The aforesaid report reveals that apart from the accused-petitioners, there are three more accused persons namely Harman Singh, Husanpreet Singh and Shera. However, the compromise has only been

effected with accused-petitioners.

5. Mr. G.S. Randhawa, Advocate for Mr. D.S. Bartia, Advocate appears for respondents No.2 & 3 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.

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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused namely Harman Singh, Husanpreet Singh and Shera and it is only accused-petitioners who have approached this Court by way of present petition, the present petition is being entertained and allowed qua them only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 *prima facie*.”

12. Consequently, the petition is allowed. FIR No.0134 dated 11.07.2019, registered for the offences punishable under Sections 452, 427, 506 and 34 of IPC at Police Station Chattiwind, District Amritsar Rural and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

29.11.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No