

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

CRM-M-33163-2019

Date of decision : 13.09.2022

Balwinder Singh and others

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. P.B.S. Goraya, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab
for respondent No.1-State.

Mr. Sumeet S. Sohal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, petitioners are seeking quashing of case FIR No.91 dated 13.06.2017, registered for the offences punishable under Sections 323, 341, 452, 427, 506, 295, 148, 149 of the Indian Penal Code, 1860 (for short, the IPC), at Police Station Sadar, Tarn Taran (Annexure P-2) on the basis of compromise dated 18.02.2019 (Annexure P-1) .

2. On 18.09.2019, the following order was passed :-

“Learned counsel for the petitioners contends that matter has been compromised between the parties.

Adjourned to 28.11.2019.

Mr. Sumeet Singh Sohal, Advocate, who is present in the Court, appears and files Power of Attorney on behalf of

respondent No.2 and the same is taken on record. He acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned counsel for the respondents during the course of the day.

Petitioners shall file their affidavit(s) before learned trial Court that there is no other criminal case pending against them and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

*In view of above, let the parties be appeared before the Court of learned Illaqa Magistrate/trial Court on **04.10.2019** to record their statements with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court, before the next date of hearing, containing the following information:-*

- (i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?*
- (ii) Whether the compromise effected between the parties is genuine and valid?*
- (iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?*
- (iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?*
- (v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*
- (vi) Whether any of the petitioner(s) is/are previous convict*

or not?

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

A copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance. ”

3. Pursuant to the aforesaid order, report has been received from

Addl. Chief Judicial Magistrate, Tarn Taran, who has reported as under :-

“It is further submitted that from the above statements of the parties so recorded by me, (i) that the statements of the parties are bona fide and are result of any pressure or coercion etc. in any manner, (ii) that the compromise effected between the parties is genuine and valid, (iii) that all the accused, complainant and injured are party to the compromise, (iv) that no other case is pending against either of the parties, (v) that three out of all the six accused persons namely Gurpreet Singh @ Gullu, Baldev Singh @ Lado, Sukhdev Singh @ Kallu involved in this case/dispute have been declared as proclaimed offenders and that none of the accused persons/petitioners is previous convict.”

4. The aforesaid report reveals that accused persons namely Gurpreet Singh @ Gullu, Baldev Singh @ Lado and Sukhdev Singh @ Kallu, who are also petitioners to this petition have been declared as Proclaimed Offenders.

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. Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, FIR No.91 dated 13.06.2017, registered for the offences punishable under Sections 323, 341, 452, 427, 506, 295, 148, 149 of IPC, at Police Station Sadar, Tarn Taran and all proceedings arising therefrom, are, hereby, quashed *qua* petitioners No.1, 5 and 6.

10. As per the report of the Trial Court, petitioners No.2 to 4 have been declared Proclaimed Offenders. Thus, the present petition *qua* them stands dismissed. However, it is made clear that the proceedings *qua* petitioners No.2 to 4, shall continue.

11. Accordingly, the petition is allowed.

September 13, 2022
Ps-I/Dpr

(PANKAJ JAIN)
JUDGE

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