

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43285-2021

Date of decision : 27.09.2022

Kshitiz Sharma

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ankur Bali, Advocate for
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.0240 dated 25.05.2021, registered for the offences punishable under Sections 406, 420 and 506 of IPC at Police Station Sector-5, Panchkula on the basis of compromise/settlement deed dated 25.08.2021 (Annexure P-2).

2. Mr. Ambavta submits that otherwise also the Investigating Agency has prepared cancellation report and has filed the same before the Court.

3. On 13.10.2021, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

Prayer made in this petition is for quashing of FIR as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 21.01.2022.

At this stage, Mr. Pawan Kumar Goklaney,

Advocate appears on behalf of respondent No.2.

In the meanwhile, parties would appear before the Illaqa Magistrate on 26.10.2021 for recording their statements. The concerned court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person. ”

4. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Panchkula dated 09.11.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

From the statements of the parties it appears that they have genuinely compromised the matter, and the compromise is result of their free will and violation. Further from the statement of the parties it is clear that there is only one accused in the present case. Let report in this regard be also sent to Hon'ble Punjab and Haryana High Court, Chandigarh. Now, to come up on 21.01.2022 for awaiting orders of Hon'ble Punjab & Haryana High Court.”

5. 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.0240 dated 25.05.2021, registered for the offences punishable under Sections 406, 420 and 506 of IPC at Police Station Sector-5, Panchkula and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

27.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No