

(250) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42336-2022

Date of Decision: 15.12.2022

Mohinder Singh @ Mahinder Singh and others ... Petitioners

Vs.

State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Vaishali Thakur, Advocate for
Mr. Vivek K. Thakur, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, A.A.G. Punjab.

Mr. Angad Parhar, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.34 dated 21.05.2022 for offence punishable under Sections 420 and 120-B IPC registered at Police Station Talwandi Chaudrian, District Kapurthala, on the basis of compromise.

On 15.09.2022, 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 FIR No.34 dated 21.05.2022 registered for offences punishable under Sections 420 and 120-B of IPC at Police Station Talwandi Chaudrian, District Kapurthala.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise/affidavit dated 20.08.2022 (Annexure P-2).

Notice of motion for 15.12.2022.

On the asking of the Court, Mr. Sarabjit Singh Cheema, DAG, Punjab, who is present in Court accepts notice on behalf of the respondent-State.

Mr. Angad Parhar, Advocate appears on behalf of respondent No.2 and admits the fact of their being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 29.09.2022.

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 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.*

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.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Sultanpur Lodhi dated 03.12.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:

“(I) No challan is presented till date. As per I.O. There are three accused namely Mohinder Singh, Jaspal Kaur and Ramneet Kaur, who are petitioners in the present petition. All of them appeared to record their statements. Accused Ramneet Kaur appeared through her power of attorney Jaspal Kaur.

(II) As per statement of investigating officer ASI Jasbir Singh No.1215/T.T. P.s. Talwandi Chaudhrian, none of the petitioners/accused have been declared proclaimed offender in the present case.

(III) The dispute is monetary. As per statement of complainant he has received Rs.11 Lakhs as compensation. The compromise seems to be voluntarily entered between the parties.

(IV) As per statement of Investigating officer as well as the all the accused/respondent persons, no other FIR is pending against any of them.

(V) It is further submitted that there is only one complainant Piara Singh whose statement has been recorded in the Court.

Compromise between the parties appears to be genuine and without any undue influence or pressure. Certified copies of statements of both the parties & investigating officer recorded in this Court are being sent herewith. The report is accordingly submitted before the Hon'ble High Court for kind perusal, please.”

Learned counsel appearing on behalf of 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.

Similarly learned State counsel has stated not objection in case the FIR is quashed based upon the compromise.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

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 and others vs. State of Punjab and 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 the 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.

Thus, keeping in view the aforesaid facts and circumstances, this Court is of the consider 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.34 dated 21.05.2022

Station Talwandi Chaudrian, District Kapurthala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

15.12.2022
rajeev

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