

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

CRM-M-47085-2021

Date of decision : 19.09.2022

Manpreet Singh @ Manu**..... Petitioner****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Munish Garg, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Munish Kamboj, Advocate for
Mr. Yashveer Kharb, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.510 dated 11.10.2021, registered for the offence punishable under Section 436 of IPC at Police Station City Barnala, District Barnala, on the basis of compromise.

2. The parties are closely related to each other. Petitioner is none else, but son of the complainant.

3. Counsel for the petitioner contends that the offence that has been alleged against the petitioner does not fall within the exceptions as carved out by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303.**

4. On 15.11.2021, the following order was passed:-

“By way of filing the instant petition, the petitioner has sought indulgence of this Court in quashing of FIR No.510 dated 11.10.2021, registered

under Section 436 IPC at Police Station City Barnala, District Barnala, on the basis of compromise arrived at between the parties.

Notice of motion.

Mr. Sarabjit Singh Cheema, Assistant Advocate General, Punjab accepts notice on behalf of the respondent No.1-State. Mr. D.V.Mann, Advocate on behalf of Mr. Yashveer Kharb, Advocate puts in appearance for respondents No. 2-complainant, who admits the factum of compromise effected between the parties and seek time to file reply.

Since the parties have moved this Court for quashing of the FIR on the basis of the compromise, they are directed to appear before Trial Court/Illaqa Magistrate on 06.12.2021 for recording their statements with regard to compromise/settlement. Trial Court/Illaqa Magistrate is directed to submit a report before the next date of hearing i.e. 13.01.2022 containing the following information:-

- 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. Current stage of the case.*

Report of the Illaqa Magistrate/trial Court be awaited for the date fixed.”

5. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Barnala dated 06.01.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

This Court, after hearing the parties in person and after going through the statements recorded in the court, is of the opinion that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence and statements recorded by the complainant party as well as accused are not the result of any pressure and coercion. The statements recorded by the parties are enclosed herewith.”

6. Mr. Munish Kamboj, Advocate for Mr. Yashveer Kharb, Advocate appears for respondent No.2 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 petitioner are quashed.

7. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

9. 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, greater 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.

10. 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 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.
- (vi) Parties are closely related to each other.

11. Consequently, the petition is allowed. FIR No. 510 dated 11.10.2021, registered for the offence punishable under Section 436 of IPC at Police Station City Barnala, District Barnala and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

19.09.2022

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Whether speaking/reasoned

Yes

Whether Reportable :

No