

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

CRM-M-42911-2020

Date of decision : 11.10.2022

Harbans Lal and another

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Daljeet S. Virk, Advocate
for the petitioners.

Mr. Madhur Sharma, Asstt. Advocate General, Punjab
for respondent No.1-State.

None for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0017, dated 18.02.2019 registered for the offences punishable under Sections 353, 186, 506 IPC, at Police Station City Rampura, District Bathinda (Annexure P-1) on the basis of compromise.

2. On 15.01.2021, the following order was passed:-

“By filing this petition, quashing of FIR No.0017 dated 18.02.2019 under Sections 353,186,506 IPC registered at P.S City Rampura, District Bathinda and all other consequent proceedings arising therefrom has been sought on the basis of compromise.

Notice of motion.

Mr. Sarabjit Singh, AAG, Punjab accepts notice on behalf of respondent No.1-State.

Parties may appear before concerned Illaqa Magistrate/

Duty Magistrate on 28.01.2021 or on any other date convenient to the said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with his report:

i) regarding genuineness and voluntary nature of the compromise;

ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

iii) whether any other proceeding is pending against the accused/petitioners.

Adjourned to 25.03.2021. ”

3. Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Phul dated 8th of February, 2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“a) From the statements of the complainant and the accused persons, it appears that the compromise between the parties has been effected voluntarily, without any pressure, threat or coercion. The compromise is genuine and valid.

b) The accused in the present case are appearing before the Court and are on bail.

c) As per statement of Investigating Officer, in case titled as State vs. Harbans Lal etc. FIR No.17 dated 18.02.2019, U/ss 353, 186, 506 IPC, Police Station City Rampura, no other criminal case/proceedings, except the present one, is pending against accused Harbans Lal and Mahavir Prashad.”

4. Though respondent No.2 has remained unrepresented before

this Court but the statement of respondent No.2/complainant has been recorded by the Ld. SDJM, Phul wherein she admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.0017, dated 18.02.2019 registered for the offences punishable under Sections 353, 186, 506 IPC, at Police Station City Rampura, District Bathinda (Annexure P-1) and all proceedings arising therefrom are, hereby, quashed *qua* the petitioners.

October 11, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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