

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

CRM-M-48045-2021

Date of decision : 11.10.2022

Gurpal Singh and another

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Krishan Kanha, Advocate for
Mr. Narinder S. Lucky, Advocate
for the petitioners.

Mr. R.S. Jhand, Addl. Advocate General, Haryana
for respondent No.1-State.

Mr. Navjit Singh, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.641, dated 09.07.2020 registered for the offences punishable under Sections 120-B, 406 and 420 of the IPC, at Police Station Ambala City, District Ambala (Annexure P-1) on the basis of compromise.

2. On 25.11.2021, the following order was passed:-

“In this petition, the petitioners, who are the accused persons in F.I.R No.641, dated 09.07.2020, under Sections 120-B, 406 and 420 of the Indian Penal Code, registered at Police Station Ambala City, District Ambala (Annexure P-1), have prayed for quashing of F.I.R. with all subsequent proceedings arising therefrom, on the basis of compromise.

2. Ld. Counsel for the petitioners refers to Compromise (Annexure P-2), and states that the matter has been amicably

settled between the parties.

3. Notice of motion.

4. Mr. Anmol Malik, DAG, Haryana, to accept notice on behalf of Respondent No.1/State. A copy of the Paper-book be supplied to him.

5. At this stage, Mr. Navjit Singh, Advocate, appears on behalf of respondents No.2 and 3 and admits the factum of compromise. He undertakes to file his Power of Attorney on the next date.

6. In view of the matter, the parties shall appear before the Ld. Trial Court/Illaqa Magistrate on 09.12.2021 for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaqa Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

7. List on 21.02.2022.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate 1st Class, Ambala dated 10.12.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Further in compliance of the said order, the complainant as well as accused person appeared before the Court.

1. Statement of complainant Anuj Gupta and Sanjeev Gupta and accused Gurpal Singh and Tarwinder Singh (annexure-1) has been recorded on solemn affirmation in which they stated that they have compromised the matter with each other voluntarily and without any fear or pressure.

2. After careful perusal of the statement given on solemn

affirmation by the complainant as well as accused concerning the present case and after careful analysis of the same, this court is convinced that the compromise between the parties in question is genuine and no such material is available on record which can reflect that the compromise has been effected under fear, threat, pressure or coercion. Therefore, this court is of the thoughtful opinion that the available material on record is in favour to reflect a valid compromise between the parties.

3. After perusal of the case file, it is clear that no one is proclaimed offender/absconding in the present case. As per report under Section 173 Cr.P.C. accused Gurpal Singh and Tarwinder Singh have involved in present case and except Anuj Gupta and Sanjeev Gupta, there is no other complainant.”

4. Ld. Counsel appearing for respondent Nos.2 and 3 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.

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.641, dated 09.07.2020 registered for the offences punishable under Sections 120-B, 406 and 420 of the IPC, at Police Station Ambala City, District Ambala (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