

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 09.11.2022

1. CRM-M-48406-2021

Mahinder Pal @ Kala

..... Petitioner

versus

State of Punjab and others

..... Respondents

2. CRM-M-48855-2021

Yash Pal and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gaurav Sharma, Advocate
for the petitioner in CRM-M-48406-2021 and
for respondents No.2 and 3 in CRM-M-48855-2021.

Mr. Mohit Thakur, AAG, Punjab.

Mr. Gitesh Sharma, Advocate for
Mr. Rayan Bhargava, Advocate
for the petitioners in CRM-M-48855-2021 and
for respondents No.2 and 3 in CRM-M-48406-2021.

PANKAJ JAIN, J. (Oral)

By way of present petitions, the petitioners are seeking quashing of cross case/Report No.22 dated 11.06.2021, registered for the offences punishable under Sections 323, 148 and 149 of IPC at Police Station Mamoon Cantt., District Pathankot and FIR No. 33 dated 17.03.2021 for the offence punishable under Section 324 of IPC, at Police Station Shahpur Kandi, District Pathankot, on the basis of compromise deed dated 20.09.2021 (Annexure P-3).

2. These are matters arising out of version and cross-version.
3. On 23.11.2021, the following order was passed:-

“Present petition has been filed for quashing of FIR No. 33 dated 17.03.2021 registered under Section 324 IPC at Police Station City Shahpur Kandi, District Pathankot, on the basis of compromise entered into between the parties.

Learned counsel for the petitioner argues that in order to live peacefully, parties have entered into compromise on 20.09.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, accepts notice on behalf of respondent No. 1.

Mr. Rajan Bhargava, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of respondents No.2 and 3. He admits the factum of the compromise entered into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 01.02.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 14.12.2021 by moving appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

1. *Number of persons arrayed as accused in the FIR,*
2. *Whether any accused is a 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 FIR or not, and*
5. *The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.*

The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is to be quashed.”

4. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Pathankot dated 17.12.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Report of this Court as follows:-

- (1) As per record, six persons namely Yash Pal, Suraksha Devi @ Guddi, Tarun Sharma, Atul Sharma, Shubham Sharma and Anju @ Manju are arrayed as accused in the FIR.
- (2) As per record, none of the accused has been declared as Proclaimed Offender.
- (3) Compromise is genuine, voluntarily and without any coercion or undue influence.

(4) As per statement, none of the accused is involved in any other FIR.

(5) As per statement of Investigating Officer, there are two victims/complainants namely Mahinder Pal @ Kala and Sapna Devi and both the complainants and accused are party to the compromise.

Report along with copies of statements of complainant and accused are submitted, with regards, as directed.”

5. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

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

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

8. 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.

9. 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/DDR/Cross case 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.

10. Consequently, the petitions are allowed. Cross case/Report No.22 dated 11.06.2021, registered for the offences punishable under Sections 323, 148 and 149 of IPC at Police Station Mamoon Cantt., District Pathankot and FIR No. 33 dated 17.03.2021 for the offence punishable under Section 324 of IPC, at Police Station Shahpur Kandi, District Pathankot, and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

09.11.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No