

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44822-2022

Date of decision : 19.12.2022

Kamaljit Kaur @ Pallo and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Dr. D.P.S. Randhawa, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.99 dated 29.05.2020, registered for offences punishable under Sections 323, 324, 148 and 149 of IPC (Section 326 of IPC added later on) at Police Station Ghuman, District Batala on the basis of compromise deed dated 09.09.2022 (Annexure P-2).

2. On 27.09.2022, 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 seeking quashing of FIR No.99 dated 29.05.2020, registered for offences punishable under Sections 323, 324, 148, 149 of the Indian Penal Code, 1860 (offence u/s 326 IPC added later on) at Police Station Ghuman, District Batala.

Ld. Counsel for the petitioners inter alia contends that the instant FIR is a result of matrimonial discord between the parties. The parties have now compromised the matter and the same has

been reduced to writing. The document i.e. compromise dated 09.09.2022/12.09.2022 has been placed on record as Annexure P-2.

Notice of motion for 19.12.2022.

On the asking of the Court, Mr. Arun Gupta, Assistant Advocate General, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Lovepreet Handa, Advocate appears and accepts notice on behalf of respondent No.2 and admits the factum of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/Duty Magistrate on 05.10.2022. On their doing so, the learned Illaqa Magistrate/Duty Magistrate 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 the 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 Illaqa Magistrate 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/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3. Pursuant to the aforesaid order, report from JMIC, Batala dated 31.10.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Statement of complainants and accused persons have been recorded by the undersigned on 05.10.2022. As per statements of the parties, compromise has been effected between the parties. Compromise appears to be genuine and voluntary.

It is further submitted that ASI Gurmukh Singh No.2592/BTL, presently posted at Police Station Ghoman has come present and suffered a statement that there are six person arraigned as accused namely Kamaljit Kaur Pallo aged about 61 years wife of Ajit Kumar, Pawan Kumar @ Pawan Bajotra aged about 28 years S/o Ajit Kumar, Raman Kumar @ Ramandeep Kumar aged about 33 years S/o Ajit Kumar, Suman Kumari aged about 34 years D/o Ajit Kumar, Shallu aged about 37 years D/o of Ajit Kumar and W/o Tarsem Lal and Ajit Kumar aged about 65 years S/o Kartar Chand all R/o Village Ainokot, PS Ghoman, Tehsil Batala, District Gurdaspur as per FIR. In this case, there is no accused person has been declared as proclaimed offender. It is averred that the present accused are not involved in any other FIR. It is further averred that in this FIR there is only one victim/complainant namely Tarsem Lal Son of Satpal, resident of H. No. 132, Mohalla Dharampura Qadian, Tehsil Batala, District Gurdaspur.”

4. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

6. 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.

7. 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.

8. Consequently, the petition is allowed. FIR No.99 dated 29.05.2020, registered for offences punishable under Sections 323, 324, 148 and 149 of IPC (Section 326 of IPC added later on) at Police

Station Ghuman, District Batala and all proceedings arising therefrom,
are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

19.12.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No