

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50418-2021

Date of decision : 05.12.2022

Jagir Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. G.S. Randhawa, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, AAG, Punjab.

Mr. Simranjit Singh, Advocate for
Mr. G.S. Bajwa, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.074, dated 02.04.2019 registered for offences punishable under Sections 295, 341, 506, 148 and 149 of IPC at Police Station Lopoke, Police District Amritsar Rural, District Amritsar on the basis of compromise deed dated 24.11.2021 (Annexure P-2).

2. On 07.01.2022, the following order was passed:-

“As per the report received from learned Judicial Magistrate Ist Class, Ajnala, qua the compliance of the order dated 02.12.2021, as passed by the Coordinate Bench in this petition, none of the parties had appeared before him for recording their statements qua the compromise as stated to have been arrived at between them.

Learned counsel for the petitioners seeks one more opportunity for the afore-said purpose, while submitting that on the date fixed for appearance of the

parties before the Court below, the complainant could not do the needful because of some unavoidable circumstances.

Learned State counsel, on the instructions from ASI Angrej Singh from Police Station Lopoke, District Amritsar, apprises the Court that the parties have informed the police authorities also regarding the said settlement having been arrived at between them.

Accordingly, both the parties are directed to appear before the Illaqa Magistrate/trial Court concerned on 15.03.2022 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 22.04.2022 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise:*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case:*
- 3. the name(s) of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has been arrived at between the parties out of their free will;*
- 6. whether any other criminal case is pending against any of the accused.*

The Illaqa Magistrate/trial Court is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

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

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

“xx xx xx

- From the statements of the parties, it clearly appears that the compromise inter-se them is genuine, voluntary and the same has been effected between the parties without any pressure, coercion or undue influence.
- From the information made available before this Court, by the means of the statement of the IO ASI Avtar Singh, there were 06 accused persons in the matter and their names were Jagir Singh, Rajinder Singh, Maninder Singh @ Manjinder Singh, Gurbinder Singh, Jagtar Singh (@ Gura and Amrik Singh. All of them had appeared before this Court and had suffered their statements.
- Likewise, there is only 01 aggrieved complainant in this case, whose name is Baldev Singh and he had also appeared and suffered his statement before the Court.
- No other criminal proceedings were reportedly pending against the any of the said accused and they were not absconding or were declared as P.O in the matter.
- As for the stage of the case, he had submitted that he has prepared a Cancellation report in the matter, which was still pending for its approval by the higher police authorities. In short, no final report was submitted in this case by the police till now.

4. Mr. Simranjit Singh, Advocate for Mr. G.S. Bajwa, 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 petitioners are quashed.

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

6. I have heard learned 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.074, dated 02.04.2019 registered for offences punishable under Sections 295, 341, 506, 148 and 149 of IPC at Police Station Lopoke, Police District Amritsar Rural, District Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

05.12.2022
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable : No