

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40242-2019 (O&M)
Date of decision : 07.12.2022

Vipin Luthra and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Vinay Kumar, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, AAG, Punjab.

Mr. Anosh Samson, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.259 dated 29.12.2017, registered for offences punishable under Sections 307, 427, 148 and 149 of IPC and Sections 25 and 27 of Arms Act, at Police Station Civil Lines, Batala, District Gurdaspur on the basis of compromise deed (Annexure P-3).

2. Counsel for the petitioners contends that even though the initial FIR was registered for offences punishable under Sections 307, 427, 148 and 149 of IPC and Sections 25 and 27 of Arms Act. However after investigation, report under Section 173 was filed only for offence punishable under Section 336 of IPC and Section 25 of the Arms Act.

3. On 25.08.2022, the following order was passed:-

CRM-32368-2019

This is an application seeking correction of the name of petitioner No.1.

For the reasons mentioned in the application, the

same is allowed. Amended memo of parties is taken on record.

CRM-M-40242-2019 (O&M)

Mr. Anush Samson, Advocate for Mr. APS Rehan, Advocate appears for respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **13.09.2022.**

On their doing so, the learned Illaqa Magistrate/trial Court 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 trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

List on **20.10.2022.**

A copy of the report be also sent through e-mail 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/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

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

“xx xx xx

1) There are two accused namely Vipin Luthra and Amit Luthra arrayed in the present case.

2) No accused has been declared proclaimed offender in this case.

3) After going through the statements of the parties, this Court is satisfied that complainant-Simarjot Singh has effected the compromise with the above named accused with his own will and without any coercion or pressure from any corner and same is found genuine.

4) No accused is involved in any other case.

5) As per statement of Investigating officer ASI Jatinderpal Singh No. 3266/Btl, there is one victim/complainant namely Simarjot Singh in the FIR.”

5. Mr. Anosh Samson, 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.

6. 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 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 petition is allowed. FIR No.259 dated 29.12.2017, registered for offences punishable under Sections 307, 427, 148 and 149 of IPC and Sections 25 and 27 of Arms Act, at Police Station Civil Lines, Batala, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

07.12.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No