

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

**CRM-M-40782-2019
Date of decision : 14.10.2022**

Surinder Kumar and another

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Naveen Batra, Advocate
for the petitioners.

Mr. Madhur Sharma, Asstt. Advocate General, Punjab
for respondent No.1-State.

Mr. Rahul Garg, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.269, dated 13.09.2019 registered for the offence punishable under Section 420 of the IPC, at Police Station Model Town, District Hoshiarpur (Annexure P-2) on the basis of compromise.

2. On 23.09.2019, the following order was passed:-

“This petition has been filed seeking quashing of FIR no.269 dated 13.09.2019, registered at Police Station Model Town, District Hoshiarpur, for the alleged commission of an offence punishable under Section 420 of the IPC, (as also all other subsequent proceedings arising therefrom), on the basis of a compromise arrived at between the petitioners and respondent no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of respondent no.1.

Two copies of the petition be handed to him during the course of the day.

Adjourned to 07.11.2019.

Respondent no.2 be served by way of ordinary process.

In the meanwhile, the petitioners, as also respondent no.2 would appear before the learned Area Magistrate up to 01.10.2019 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners. ”

3. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Hoshiarpur dated 11.10.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“It is respectfully submitted that as per order dated 23.09.2019 passed by the Hon'ble High Court, complainant Preeti @ Preeti Sidhu as well as accused Surinder Kumar and Jagjit Lal @ Jaggi appeared before this court and got recorded their statements to the effect that they have effected compromise with the intervention of the respectables of the society (statements of parties attached herewith). The complainant Preeti @ Preeti Sidhu further stated she has no objection if the

FIR against the accused is quashed. The compromise has been effected between her and the accused voluntarily and with her own sweet will and the accused has not pressurized or used coercion upon her for effecting the compromise. The accused also suffered statement in this regard. After going through the statements of the complainant, as well as accused, I am of the considered view that, the compromise between the parties is effected voluntary, without any pressure of coercion. Further from the contents of allegation and statements of parties it shows only complainant is the aggrieved person and there is nobody else whose consent is required for compromise. In these circumstances, it seems that genuine compromise has been effected between the parties.”

4. Ld. Counsel appearing for respondent No.2 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.269, dated 13.09.2019 registered for the offence punishable under Section 420 of the IPC, at Police Station Model Town, District Hoshiarpur (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

October 14, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No