

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

**CRM-M-45369-2019
Date of decision : 14.10.2022**

Paramjit Kaur

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amit Arora, Advocate
for the petitioner.

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

Mr. P.S. Kanwar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.14, dated 25.01.2012 registered for the offence punishable under Section 420 of the IPC, 1860 at Police Station Cantonment, District Amritsar City (Annexure P-1) on the basis of compromise.

2. On 23.10.2019, the following order was passed:-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.14 dated 25.01.2012 registered under Section 420 of Indian Penal Code, 1860 at Police Station Cantonment, District Amritsar City.

Notice of motion for 06.03.2020.

At the asking of the Court, Mr. Kirat Singh Sidhu, DAG, Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned

State counsel, in the Court.

At this stage, Ms. Kuldeep Kaur, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise. Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate on or before 06.12.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaqa Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

1. Number of persons arrayed as accused in 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.

A copy of the report be also sent through fax to the Registrar Judicial of this Court. ”

3. Pursuant to the aforesaid order, report from Judicial Magistrate 1st Class, Amritsar dated 11.12.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Statement of IO was recorded by under-signed on 07.12.2019 and as per his statement, as per record, the present FIR has been registered on the statement of complainant Narminder Singh against the accused namely Paramjit Kaur and Sher Singh (since deceased). **Both the accused were earlier declared Proclaimed Offenders on 08.01.2014 out of whom Sher Singh has died on 11.03.2014 and accused Paramjit Kaur was arrested on dated 25.04.2019 and challan against her was presented in the court on**

01.06.2019. No other case was registered against accused Paramjit Kaur and Sher Singh (since deceased) except the present case. There is only one complainant/aggrieved party and two accused in the present FIR. Counsel for accused has also placed on record copy of compromise.”

4. Ld. Counsel for the petitioner contends that co-accused Sher Singh @ Sherwinder Singh, husband of the petitioner who was also nominated in the FIR has died.

5. 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 petitioner 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.14, dated 25.01.2012 registered for the offence punishable under Section 420 of the IPC, 1860 at Police Station Cantonment, District Amritsar City (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 14, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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