

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50058-2019

Date of decision : 19.09.2022

Gagandeep Kaur and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Madhur Sharma, AAG, Punjab.

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

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0118 dated 04.07.2019, registered for the offence punishable under Section 380 of IPC at Police Station City Sadar Patiala, District Patiala, on the basis of compromise.

2. Parties are stated to be closely related as petitioner No.2 is said to be sister-in-law of the complainant-respondent No.2 and are also said to be living in the same dwelling house.

3. Counsel for the petitioners contends that offence is of private nature and would not fall within the exceptions as carved out by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303.**

4. On 26.11.2019, the following order was passed:-

“Notice of motion.

Mr. Amandeep S. Gill, Sr. DAG Punjab, accepts notice on behalf of the respondent-State. Let two copies of the petition be supplied to him during the

course of the day.

Mr. Parampreet Singh Paul, Advocate accepts notice on behalf of respondent No. 2.

The matter pertains to quashing of FIR No. 118 dated 04.07.2019 registered under Section 380 IPC at Police Station Sadar Patiala on the basis of compromise dated 18.11.2019 (Annexure P-2).

The parties are directed to appear before the trial Court/Illaq Magistrate on 16.12.2019 and get their statements recorded and thereafter the latter shall transmit its report to this Court regarding genuineness of compromise well before the next date of hearing.

Adjourned to 21.01.2020.”

5. Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Patiala dated 17.03.2020 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

On 13.3.2020 complainant/respondent No.2, namely, Harjeet Singh s/o Gurdev Singh, had appeared in the Court and suffered a statement (copy enclosed) to the effect that he has compromised the matter with the accused persons, in respect of FIR No.118, dated 4.7.2019, u/s 380 IPC, Police Station Sadar, Patiala and that compromise is voluntary, without any coercion, threat or undue influence. He has further stated that the compromise between them will lead to maintenance of peace and harmony between them and will improve the relations amongst them. The compromise is genuine and no other criminal proceedings are pending between the parties, except the present FIR. The complainant has further requested for quashing of the FIR being compromised. The complainant has also placed on record copy of his

Aadhar Card, as EX P3 (copy enclosed). The complainant was duly identified by Sh.H.S.Bhanra, Advocate.

On the same day i.e. 13.3.2020 accused/petitioners, namely, Gagandeep Kaur and Ramanpreet Kaur, had also appeared in the Court and suffered a joint separate similar statement (copy enclosed) with regard to the compromise. The accused persons, named above, have also placed on record, copies of their Aadhar Cards, as EX P1 & EX P2 (copies enclosed). The accused persons have also been identified by Sh.M.S. Tiwana, Advocate.

Therefore, in view of the above statements of the parties, it is reported that the compromise effected between the parties, appears to be genuine, voluntarily and without any coercion or undue influence.”

6. Mr. P.S. Paul, 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 petitioner are quashed.

7. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

9. 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.

10. 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.

11. Consequently, the petition is allowed. FIR No.0118 dated 04.07.2019, registered for the offence punishable under Section 380 of IPC at Police Station City Sadar Patiala, District Patiala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

19.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No