

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

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CRM-M-818-2023 (O&M)
Date of decision : 17.07.2023

Sidharth Bhadu @ Pawan Bhadu and another Petitioners

versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Bishnoi, Advocate
for the petitioners.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Naveen Siwach, Advocate for
Mr. K.S. Dhanora, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing of FIR No.903 dated 06.10.2022 registered for the offences punishable under Sections 323, 34, 452 and 506 of IPC, 1860 (Section 307 of IPC, 1860 added later on) on the basis of compromise deed dated 02.01.2023 (Annexure P-2).

2. On 04.05.2023, the following order was passed:-

“CRM-14510-2023

The instant application has been filed for placing on record the copy of MLR of respondent No. 2 as Annexure P-5.

For the reasons mentioned therein, the application is allowed.

Document as Annexure P-5 is taken on record subject to all just exceptions.

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CRM-M- 818-2023 (o&m)

Prayer in this petition is for quashing of FIR in question and all the subsequent proceedings arising therefrom, on the basis that a compromise has been entered into between the parties.

Learned counsel for respondent No.2 admits to the factum of compromise entered into between the parties.

List on 17.07.2023.

Meanwhile, the parties are directed to appear before the learned trial Court/Illaq Magistrate within a period of 30 days from today to get recorded their statements regarding compromise and after recording their statements, learned trial court/Illaq Magistrate, is directed to send the report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 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 FIR 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 and apprise this Court about the stage of proceedings.*

Meanwhile, reply be filed by the respondent-State.”

3. Pursuant to the aforesaid order, report dated 14.07.2023 from CJM, Sirsa has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. As stated by investigating officer, two persons namely Sidharth @ Pawan Bhadu and Ram Niwas Bhadu have been arrayed as accused in FIR.

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2. As stated by investigating officer, none of the accused has been declared proclaimed offender in this case. An affidavit to that effect has also been furnished by both the accused.

3. The compromise is genuine, voluntary and without any coercion or undue influence.

4. As per affidavit furnished by both the above named accused persons as well as statement of investigating officer, accused namely Sidharth @ Pawan Bhadu and Ram Niwas Bhadu are not involved in any other FIR.

5. As per statement of investigating officer, there is only one complainant/victim namely Mohit Bishnoi in the FIR and matter is still pending investigation.”

4. Mr. Naveen Siwach, Advocate for Mr. K.S. Dhanora, 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. Similarly 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

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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 fall within the exceptions as carved out in **Laxmi Narayan's** case (supra). However, counsels appearing for the parties are *ad idem* that the dispute relates to matrimonial discord. Though allegations qua intention to kill were made but there is no injury caused that can be said to be life threatening and caused with intent to kill. Thus, the offence punishable under Section 307 IPC would not be attracted.
- (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.
- (vi) No firearm has been used.
- (vii) Injury has not been inflicted on the vital/delicate part of the body.
- (viii) Investigation stands completed.

9. Consequently, the petition is allowed. FIR No.903 dated 06.10.2022 registered for the offences punishable under Sections 323, 34, 452 and 506 of IPC, 1860 (Section 307 of IPC, 1860 added later on) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

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

(PANKAJ JAIN)
JUDGE

17.07.2023

Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes

No