

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

CRM-M-596-2023

Date of decision : 16.08.2023

Harjinder Singh and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ashdeep Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Mikhail Kad, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0117 dated 09.06.2018, registered for the offences punishable under Sections 341, 323, 506, 427, 382, 148 and 149 of IPC, 1860 (Sections 382, 148 and 149 of IPC were deleted and Sections 452, 201 and 34 of IPC were added later on), at Police Station Sohana, District SAS Nagar, on the basis of compromise deed dated 03.11.2022 (Annexure P-2)

2. On 09.01.2023, the following order was passed:-

“Notice of motion.

Mr. Arun Luthra, DAG, Punjab and Mr. Mikhail Kad, Advocate, accept notice on behalf of respondent No.1 and respondent No.2.

Learned counsel for the petitioners undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the

day.

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.0117 dated 09.06.2018 registered under Sections 341, 323, 506, 427, 452, 201 and 34 IPC at Police Station Sohana, District SAS Nagar on the strength of a written compromise dated 03.11.2022 (Annexure P-2) entered into between the parties.

The petitioners as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 23.01.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 18.04.2023.”

3. Pursuant to the aforesaid order, report dated 05.05.2023 from JMIC, SAS Nagar, Mohali has been received, which is taken on record.

As per the report, the trial Court has recorded as follows:-

“xx xx xx

Investigating officer HC Jagat Pal, Belt No.911/SAS Nagar, presently posted at PS Sohana, SAS Nagar, appeared in court and suffered his

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statement in writing that he is investigating officer of the present case bearing FIR No.117 dated 09.06.2018, U/s 341, 323, 506, 427, 382, 148, 149 of IPC (later on Sections 382, 148, 149 IPC were deleted and Section 452, 201, 34 IPC were added) was registered at Police Station Sohana District SAS Nagar, Mohali on the statement of the complainant Baljinder Singh S/o Pritam Singh against accused persons namely Harjinder Singh S/o Ratan Singh and Jasbir Singh @ Jasvir Singh S/o Sadhu Singh and Amandeep Singh @ Aman S/o Jaswinder Singh (who is proclaimed person vide order dated 26.10.2022). There in one complainant/Victim/aggrieved person namely Baljinder Singh S/o Pritam Singh in the said FIR case.

He further gave the answer of the following questions i.e.

Q. Whether the any accused is declared proclaimed offender?

A. One accused namely Amandeep Singh @ Aman S/o Jaswinder Singh has been declared proclaimed offender in this case vide order dated 26.10.2022 of this Hon'ble Court.

Q2. Whether the accused persons are involved in any other FIR/criminal case?

Ans. (a) The following FIRS has been registered against the accused Jasbir Singh @Javir Singh S/o Sadhu Singh are:-

(i) FIR No. 222 dated 25.09.2017, u/s 323, 341, 506, 148, 149 IPC, PS Sohana.

(ii) FIR No. 119 dated 10.06.2018 u/s 61/1/14 Excise Act, PS Sohara.

(iii) FIR No. 12 dated 04.02.2021, u/s 323, 341, 506, 34 IPC, PS Balongi, SAS Nagar

(iv) FIR No. 01 dated 01.01.2015, u/s 323, 342, 506, 149, 149 IPC, PS Sohana.

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(v) FIR No. 178 dated 28.05.2007, u/s 447, 506, 149 IPC, PS Kharar.

(vi) FIR No. 93 dated 08.12.2012, u/s 379 IPC, PS Mullanpur, Garib Dass, SAS Nagar.

(b) The following FIR has been registered against the accused Harjinder Singh S/o Ratan Singh is

(i) FIR No. 173 dated 28.05.2007, u/s 447, 506, 149 IPC. PS Kharar.

He identified the complainant Baljinder Singh S/o Pritam Singh and accused persons namely Harjinder Singh S/o Ratan Singh and Jasbir Singh @ Jasvir Singh S/o Sadhu Singh present in the court.

It is pertinent to mention here that as per statement of the Investigating officer of the present FIR there are total 06 FIR case is pending against accused Jasbir Singh @ Jasvir Singh and one FIR case is pending against accused Harjinder Singh.

It is further pertinent to mention here that as per the statements of both the above said accused persons namely Harjinder Singh and Jasbir Singh @ Jasvir Singh there is one criminal case bearing FIR no. 56 dated 18.12.2010 U/s 307, 459, 148, 149 IPC, PS Balongi, SAS Nagar, against them pending in the CBI Court, SAS Nagar, Mohali. It is further, submitted that the accused Amandeep Singh @ Aman son of Jaswinder Singh has been declared proclaimed person, as such, he is not party to the present compromise in the present case.”

4. The aforesaid report reveals that there are three accused persons namely Harjinder Singh, Jasbir Singh @ Jasvir Singh and Amandeep Singh @ Aman. However, the compromise has only been effected with accused-petitioners Harjinder Singh and Jasbir Singh @

Jasvir Singh.

5. Mr. Mikhail Kad, 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. Similarly 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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Amandeep Singh @ Aman and it is only Harjinder Singh and Jasbir Singh @ Jasvir Singh who have approached this Court by way of present petition, the present petition is being entertained and allowed qua Harjinder Singh and Jasbir Singh @ Jasvir Singh only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.0117 dated 09.06.2018, registered for the offences punishable under Sections 341, 323, 506, 427, 382, 148 and 149 of IPC, 1860 (Sections 382, 148 and 149

of IPC were deleted and Sections 452, 201 and 34 of IPC were added later on), at Police Station Sohana, District SAS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

16.08.2023
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No