

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CRM-M No. 1375-2023
Date of decision : 27.07.2023

Navjot Singh @ Jyoti and others

....Petitioners

Versus

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Arshdeep Kaur, Advocate and
Mr. C. S. Rana, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Himani, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No 117 dated 11.11.2021 registered for the offences punishable under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code at Police Station Hathur, District Ludhiana Rural on the basis of compromise dated 14.02.2022 (Annexure P-2).

On 11.01.2023, the following order was passed :

“Notice of motion.

*Mr. Arun Luthra, DAG, Punjab and Ms. Himani,
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.117 dated 11.11.2021 registered under Sections 323, 341, 506, 148 and 149 IPC at Police Station Hathur, District Ludhiana on the strength of a written compromise dated 14.02.2022 (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 25.01.2023 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 04.05.2023.”

Thereafter on 04.05.2023, the following order was passed :-

“CRM-19780-2023

Through this application, the applicants/petitioners prays for another opportunity to record the statements of the parties before the trial court in terms of the compromise arrived at between them.

On 11.01.2023 this Court had directed the parties to appear before the Illaqa Magistrate/Trial Court for getting

their statements recorded with regard to compromise arrived at between them.

As per report dated 29.04.2023 of the Judicial Magistrate, Jagraon, the parties did not appear before the Illaqa Magistrate/Trial Court to get their statements recorded in pursuance to the afore order of this Court.

Learned counsel for the applicants/petitioners prays for another opportunity to do the needful which in the interest of justice and subject to payment of Rs.5,000/- as costs, to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, is granted.

The parties shall now appear before the Illaqa Magistrate/Trial Court on 30.05.2023 in terms of the afore order of this Court.

CRM stands disposed of.

Main case

To await the report of the Illaqa Magistrate/Trial Court, adjourned to 27.07.2023. ”

Pursuant to the aforesaid order, report from the Judicial Magistrate 1st Class, Jagraon dated 05.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ In the present ease, both the petitioners and complainan Jagdish Singh stated that they have compromised the matter with the intervention of the respectable persons of the society at their own free will and consent, voluntarily without any pressure and now they have no grudge against each other. Further, complainant-Jagdish Singh has also stated that no other person was injured/victim/aggrieved in the present case

I am satisfied 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. The above named parties have placed on record their identity proofs which are correct as per original and copies of the same are attached

herewith for your kind perusal and both the above named parties have been duly identified by their respective counsel.

It was assured beforehand that both the petitioners and complainant are giving their statements voluntarily without any pressure and I am satisfied that, the compromise effected between them is genuine and voluntary and without any coercion or undue influence.”

Learned counsel 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.

Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 14.02.2022 (Annexure P-2).

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. Consequently, the petition is allowed. FIR No 117 dated 11.11.2021 registered for the offences punishable under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code at Police Station Hathur, District Ludhiana Rural and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

27.07.2023
Mehak

(PANKAJ JAIN)
JUDGE

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