

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-1871-2023

Date of decision : 18.07.2023

Gurmej Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. B.D. Sharma, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Pankaj Sharma, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing of FIR No.63 dated 29.03.2007, registered for offences punishable under Sections 419, 420, 465, 467, 468 471 and 120-B of IPC at Police Station City Tarn Taran, District Tarn Taran on the basis of compromise deed dated 24.11.2022 (Annexure P-2).

2. On 18.05.2023, the following order was passed:-

“CRM-22862-2023

Allowed as prayed for.

Documents annexed with the application are taken on record. Exemption sought is granted.

CRM-22863-2023

This application has been filed for changing the date for recording statements mentioned in order dated 18.04.2023.

Notice of the application.

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Mr. B.D. Sharma, Advocate, for the petitioners accepts notice and waives service. He has no objection in case the application is allowed.

For the reasons stated therein, the application is allowed.

The parties are directed to appear before the trial Court/Illaq Magistrate on or before 22.05.2023 for getting their statements recorded. After recording the statements of the parties, the learned trial Court/Illaq Magistrate shall send a report to this Court regarding genuineness of the compromise between them well before the next date of hearing i.e. 18.07.2023.”

3. Pursuant to the aforesaid order, report dated 04.07.2023 from JMIC, Tarn Taran has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

In view thereof, the report is submitted as follows:

1. As per the statement of IO ASI Satnam Singh 331/TT, there are **19** persons arraigned as accused in this FIR, however accused Gurmej Singh son of Thakar Singh son of Pal Singh r/o Patti Lehandi, Bath, Tarn Taran, Punjab, Vimal Kumar @ Bimal Kumar son of Ram Saroop s/o Chamabn Lal r/o Street Dr. Atma Singh Wali, Khalsa Pur Road, Tarn Taran, Punjab Vishal Bhardwaj son of Bihm Sain r/o H.No.6/117, Khalsapur Road, Tarn Taran, District Tarn Taran and Davinder Kumar son of Kashmiri Lal Gupta r/o H.No. 4/374 Gali SDO Davinder Singh Wali, Guru Amardass Colony, Tarn Taran, District Tarn Taran are facing trial.

2. As per the statement of IO AS1 Satnam Singh 331/TT, Accused **Tabir-Ul-Haq, Rakesh Kumar and Rajinder Kumar** have been died and remaining **12**

accused have been discharged.

3. As per the statements of both the parties and IO ASI Satnam Singh, 331/TT, the compromise is genuine, voluntarily and out of free will and there is no pressure, threat or coercion upon the victim/complainant.

4. As per the statement of IO ASI Satnam Singh 331/TT the trial is at the stage of prosecution evidence.”

4. Mr. Pankaj Sharma, Advocate appears for respondents No.2 to 4 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. 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 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.

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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.63 dated 29.03.2007, registered for offences punishable under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC at Police Station City Tarn Taran, District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

18.07.2023

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Whether speaking/reasoned Yes

Whether Reportable : No