

2023:PHHC:142322

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1557-2020

Date of decision: 06.11.2023

Anila Kalra

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Anu Sharma, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ankush Rampal, Advocate for
Mr. Rahul Rampal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

Reply by way of an affidavit of Jasroop Kaur Batth, IPS, ACP (Civil Lines) Ludhiana on behalf of respondent No.1-State has been filed. The same is taken on record. Copy thereof has been supplied to learned counsel for the petitioners.

By way of present petition, the petitioners are seeking quashing of FIR No.137, dated 20.07.2016 (Annexure P-1) registered for the offences punishable under Sections 279, 337, 338, 427 IPC at Police Station Model Town, District Ludhiana on the basis of compromise dated 06.01.2020 (Annexure P-2).

2. On 10.08.2023, the following order was passed:-

“Learned counsel for the petitioner contends that the matter already stands compromised vide compromise dated 06.01.2020 (Annexure P-2).

Learned counsel for respondent No.2 admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e the petitioner as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 31.08.2023. On their doing so the learned Duty Magistrate/Illaq Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

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1. Number of persons arrayed as accused in the FIR.
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 case 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. A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 28.09.2023.”

3. Pursuant to the aforesaid order, report dated 14.09.2023 from Judicial Magistrate Ist Class, Ludhiana has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1. Number of persons arrayed as accused in FIR?

A. In this regard, it is respectfully submitted that as per the statement of Investigating Officer and the challan presented by the police, there is **ONE ACCUSED ANILA KALRA** in the present FIR.

2. Whether any accused is proclaimed offender?

A. In this regard, it is respectfully submitted that as per file and as per the statement of investigating officer, **NONE OF THE ACCUSED** has been declared as proclaimed offender in the present case.

3. Whether the accused persons are involved in any other case or not.

A. In this regard, it is respectfully submitted that as per statement of investigating officer and of the accused, there is **NO OTHER CRIMINAL CASE** pending against the accused.

4. Whether the compromise is genuine, voluntarily and without any coercion or undue influence?

A. In this regard, it is respectfully submitted that in view of the statement suffered by the parties and from their demeanor during preliminary questioning, the **COMPROMISE BETWEEN THE PARTIES APPEARS TO BE GENUINE, VOLUNTARY AND OUT OF FREE WILL OF THE PARTIES.**”

4. 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.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 06.01.2020 (Annexure P-2).

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6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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*

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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.

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) i.e. heinous offence.*
- (ii) The offences alleged 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 is reported to have entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No.137 dated 20.07.2016, registered for offences punishable under Sections 279, 337, 338, 427 IPC at Police Station Model Town, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

06.11.2023

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