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

**CRM-M-1872-2020
Date of decision : 21.11.2023**

Jagdev Kaur and another

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kulwinder Singh, Advocate and
Ms. Srishti Shukla, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Prayer is for quashing of FIR No.58, dated 10.06.2011, registered for offences punishable under Section 420, 406, 506, 120-B IPC, 1860 at Police Station Sadar Nabha, District Patiala, (Annexure P-1), and all proceedings subsequent thereto on the basis of compromise (Annexure P-2)

2. Ld. Counsel for the petitioners relies upon the judgment passed by Apex Court in the case of **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)**, to contend that this

Court while exercising jurisdiction under Section 482 Cr.P.C. can quash the FIR and criminal proceedings even at the stage of post-conviction when appeal is pending.

5. In the case **Ram Gopal and another vs. State of Madhya Pradesh** (supra) Apex Court held as under :

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary

nature of compromise between the accused and the victim;
& (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

2. While issuing notice of motion on 20.01.2020 following order was passed :

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for **4.5.2020**.

The parties are directed to appear before the Illaqa Magistrate/trial Court on **24.2.2020** for getting their statements recorded qua the factum of compromise.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties. The Illaqa Magistrate/trial Court shall also furnish the following information:-

1. Whether there is any other accused other than the petitioners, arrayed in this petition?
2. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?”.

3. Pursuant to the aforesaid order, report from JMIC, Nabha dated 02.03.2020 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Complainant Harchand Singh has also stated that the compromise has been effected between him and the accused with the intervention of respectable and relatives of the parties. He has no objection if the FIR in question is quashed. He

further deposed that he has entered into compromise with the accused and settled the matter amicably with his free will and without any pressure. Except him, no other complainant or affected/ aggrieved party in this present FIR.

From the aforesaid statements of the affected parties, it apparently appears that the parties have voluntarily, without any pressure or coercion, entered into the compromise between themselves and have settled the matter amicably and said compromise appears to be genuine.

It is pertinent to mention here that there is no other accused other than the petitioners namely Jagdev Kaur and Gurpreet Singh except the accused namely Harnek Singh and Nirbhai Singh who are already expired during the course of trial. There is no other affected/ aggrieved party except the complainant.”

5. The aforesaid report reveals that on 24th of February, 2020 the complainant Harchand Singh son of Babu Singh appeared before the Trial Court and suffered a statement regarding the factum of compromise and also submitted his 'no objection' in case the FIR is quashed *qua* the petitioners. However, till date he remained unrepresented in the present case.

6. Ld. State Counsel has also stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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) Complainants/victims have entered into compromise on their own volition.
- (vi) Though the petitioners already stand convicted yet in view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all proceedings subsequent thereto.

10. Consequently, the present petition is allowed. FIR No.58, dated 10.06.2011, registered for offences punishable under Section 420, 406, 506, 120-B IPC, 1860 at Police Station Sadar Nabha, District Patiala, (Annexure P-1) and all proceedings subsequent thereto are hereby quashed *qua* the petitioners.

November 21, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No