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

CRM-M-2487-2022
Date of decision : 28.07.2023

RAJVIR SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. J.S. Binder, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. B.S. Toor, Advcoate for

Mr. J.S. Moudgill, Advocate for respondents No.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.133, dated 29.10.2019 registered for the offences punishable under Sections 323, 342, 447, 511 and 34 IPC, at Police Station Chhajali, District Sangrur (Annexure P-1) on the basis of compromise.

2. On 08.02.2022, the following order was passed :-

“Case heard via video conferencing.

By this petition, the petitioners seeks quashing, on the basis of a compromise arrived at between them and respondents no.2 and 3, of FIR no.133, dated 29.10.2019, registered at Police Station Chhajali, District Sangrur, for the alleged commission of offences punishable under the provisions of Sections 323, 342, 447 and 511 of the IPC, read with Section 34 of the IPC, as also all other

subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. M.S. Nagra, learned AAG, Punjab, accepts notice at the asking of the court on behalf of respondent no.1, with Mr. Jagmeet Singh Moudgill, Advocate, appearing and accepting notice on behalf of respondents no.2 and 3. He will file a power of attorney duly executed by the aforesaid respondents in his favour well before the next date of hearing.

A copy of the petition be emailed to both learned counsel by counsel for the petitioners today itself. Adjourned to 24.05.2022.

In the meanwhile, the petitioners, as also respondents no. 2 and 3, would appear before the learned trial court/Ilaqa Magistrate upto 25.04.2022 to record their statements.

The trial court/Ilaqa Magistrate would satisfy itself/herself/himself 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, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners, of like nature or otherwise. ”

3. Pursuant to the aforesaid order, report from JMIC, Sunam dated 04.03.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“On the basis of statements given by the complainant, eye-witness and the accused persons, this Court is of the considered view that compromise between the parties is genuine,

voluntarily and out of free will and is effected without any pressure, coercion of undue influence from any quarter. As per the record available with the court of undersigned, there is one complainant namely Karnail Singh and one eye-witness Bhagwant Kaur and there are four accused persons namely Rajvir Singh, Simranjit Kaur, Kuldeep Singh and Gurmit Singh and all of them are the party to the compromise. Hence, there is no other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required. Further, as per the record available with the court of undersigned and as per the statements of all the accused persons, the accused persons namely Rajvir Singh, Simranjit Kaur, Kuldeep Singh and Gurmit Singh have never declared Proclaimed Offender, in the present FIR and they are not involved in any other criminal case except the present case.”

4. Ld. Counsel appearing for respondent Nos.2 and 3 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 Ld. State Counsel has 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.

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.

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.133, dated 29.10.2019 registered for the offences punishable under Sections 323, 342, 447, 511 and 34 IPC, at Police Station Chhajali, District Sangrur (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

July 28, 2023
Dpr

(Pankaj Jain)
Judge

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