

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

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**CRM-M-2263-2020 (O&M)
Date of decision : 29.11.2023**

Gurwinder Singh @ Priyankal

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. G.S. Ghuman, Advocate for
Mr. Atul Kumar, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Naveen Bawa, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.104 dated 14.07.2015, registered for the offence punishable under Section 295 of IPC at Police Station Division No.2, District Ludhiana on the basis of panchayati compromise dated 10.05.2016 (Annexure P-2).

2. On 20.01.2020, the following order was passed:-

“Prayer made herein is for quashing of FIR (Annexure P-1) and proceedings emanating therefrom on the basis of a compromise effected between the parties.

Notice of motion for 15.5.2020.

Mr. Naveen Bawa, Advocate has appeared on behalf of respondent No.2 and filed memorandum of appearance. The same is taken on record. He

undertakes to file power of attorney by the next date of hearing.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 19.2.2020 for getting their statements recorded qua the factum of compromise.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statement 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 dated 24.02.2020 from JMIC, Ludhiana has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

The statements of complainant Ramesh Bangar son of Late Dass Ram and accused Gurvinder Singh @ Prinkle son of Satnam Singh were recorded. The said compromise as per order of even date has been found as voluntarily without any pressure being result of amicable settlement between the parties. As per the report of the concerned Ahlmad, no other case is pending between the parties before this court and no proceedings to declare accused proclaimed offender is pending before this court. Accordingly, report in this

regard be sent to Hon'ble Punjab & Haryana High Court, Chandigarh. The copy of order alongwith copies of statements are enclosed to the said effect.”

4. Mr. Naveen Bawa, Advocate appears for respondent No.2 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 petitioner 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. 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 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.104 dated 14.07.2015, registered for the offence punishable under Section 295 of IPC at Police Station Division No.2, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.
10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

29.11.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No