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

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CRM-M-2586-2020**Date of decision : 16.10.2023****Rashmi Negi****..... Petitioner****versus****State of Haryana and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Lovepreet Singh, Advocate for
Mr. Sanjeev Kodan, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Vinod K. Kanwal, Advocate for
Mr. Rishu Garg, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.204 dated 09.09.2017, registered for the offences punishable under Sections 406 and 420 of IPC, 1860 at Police Station Cheeka, District Kaithal on the basis of compromise/affidavit dated 12.05.2023 (Annexure P-7).

2. On 06.07.2023, the following order was passed:-

“CRM-4679-2022

This is an application for placing on record reply on behalf of respondent/complainant-Avtar Singh and further exemption is prayed for from filing certified copy thereof.

For the reasons recorded in the application, the same is allowed. Reply on behalf of respondent/complainant is taken on record.

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CRM-23472-2023

To begin with, the applicant/petitioner approached this Court seeking quashing of FIR No.204 dated 9th of September, 2017 registered for the offences punishable under Sections 406, 420 IPC, at Police Station Cheeka (Annexure P-1) on merits. However subsequently the parties entered into a settlement and pursuant thereto the complainant executed an affidavit dated 12th of May, 2023 and the present application has been moved to treat the quashing petition as quashing on the basis of compromise.

For the reasons recorded in the application, the same is allowed. The present petition which was initially filed under Section 482 Cr.P.C. seeking quashing of FIR on merits, is ordered to be treated as quashing of FIR on the basis of compromise.

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Counsels are *ad idem* that the parties have compromised the matter. The complainant-Avtar Singh who is present in person in the Court today and has been identified by his counsel, has also submitted that the matter stands compromised.

In view of above, the parties are directed to appear before learned Trial Court/Duty Magistrate on **14th of July, 2023**. On their doing so, the learned Trial Court/Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender?

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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 Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

For awaiting report from the Trial Court/Duty Magistrate, list on **16th of October, 2023.**”

3. Pursuant to the aforesaid order, report from SDJM, Gulha, District Kaithal dated 26.07.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Sh Harpal Singh, SI has also appeared in person and suffered his statement that in the present case, accused namely Rashmi Singh Negi was arrested and no accused has been declared as P.O. He further stated that accused Rashmi Singh Negi is involved in FIR No.333 dated 08.09.2016, under Section 420 of IPC, Section 24 of Immigration Act, 1983, P.S. Sector 34, Chandigarh, FIR No.209 dated 2007, under Sections 420, 120-B, 34 of IPC. P.S. Chankayapuri, New Delhi, FIR No.135 dated 02.09.2014, under Sections 323, 342, 354, 452, 506, 120-B of IPC, Section 25-27-54-

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59 of Arms Act, P.S. Maddaur, SAS Nagar, Mohali, FIR No.149 dated 12.08.2015, under Sections 420, 120-B of IPC. P.S. Maddaur, SAS Nagar Mohali, FIR No.22 dated 14.02.2014, under Sections 406, 420 of IPC, Section 24 of Immigration Act, PS. Maddaur SAS Nagar, Mohali, FIR No.394 dated 04.11.2015, under Sections 120-B, 141, 144, 149, 363, 364, 365, 367, 368, 386, 420 of IPC. PS Sector 5, Panchkula, FIR No. 133 dated 06.10.2018, under Sections 406, 420 of IPC and Section 24 of Immigration Act, 1983, Phase XI, SAS Nagar, Mohali.

In view of the statement of the parties, this court is satisfied that parties have voluntarily entered into the compromise which is in the interest of parties and would bring the harmony and peace between the parties. The said compromise/ settlement is genuine and is not result of any pressure or coercion in any manner.”

4. Mr. Vinod K. Kanwal, Advocate for Mr. Rishu Garg, 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. 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)**

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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

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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.204 dated 09.09.2017, registered for the offences punishable under Sections 406 and 420 of IPC, 1860 at Police Station Cheeka, District Kaithal and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

16.10.2023
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable :

No