

CRM-M-4076-2023

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

**CRM-M-4076-2023
DECIDED ON: 26.07.2023**

ROHIT DHAMMI AND ORS

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Neha Anand Mahajan, Advocate for
Mr. K.S. Rupal, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Pavit, Advocate
for respondent No.2.

PANKAJ JAIN, J (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 01 dated 01.01.2021 registered for the offences punishable under Sections 420/120-B of the Indian Penal Code and Section 24 of Immigration Act at Police Station Division No. 8 Ludhiana (Annexure P-1) on the basis of compromise dated 22.01.2021 (Annexure P-4).

2. On 03.05.2023 the following order was passed :

“Notice of motion.

*Mr.Arun Luthra, DAG, Punjab and Mr.Pavit, Advocate, accept
notice on behalf of respondent No.1 and respondent No.2 respectively.*

Learned counsel for the petitioners undertakes to supply a

complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.01 dated 01.01.2021 registered under Sections 420 and 120-B IPC and Section 24 of the Emigration Act, 1983 at Police Station, Division No.8, Ludhiana on the strength of a written compromise (Annexure P-4) entered into between the parties.

The petitioners as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 09.02.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 03.05.2023.”

3. In compliance of the order dated 03.05.2023, the parties were directed to appear before the Chief Judicial Magistrate, Ludhiana and as per the said report, the trial Court has recorded the following observations.

“It is, further, respectfully submitted that in compliance of above-said order passed by Hon’ble High Court, none of the party has appeared before the undersigned in order to suffer statement with regard to compromise effected between the parties. Therefore, the veracity of compromise could not be ascertained.”

4. However, on 12.05.2023 parties were again directed to appear before the Chief Judicial Magistrate, Ludhiana and report from Chief Judicial Magistrate, Ludhiana dated 12.06.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In view of the statements of complainant/respondent No.2 Amardeep Singh and accused/petitioners Rohit Dhammi, Jatinder Singh,

Anshuman Kundan, Devinder Sandhu and Baljit Singh Sandhu, as detailed herein-above, it emerges on record that the matter has been compromised between them with the intervention of respectables out of their free will, voluntarily and without any pressure, threat, undue influence or coercion from any quarter. It also emerges from the statement of Investigating Officer ASI Sukhraj Singh No.3620/Ldh, that all the above said five accused namely Rohit Dhammi, Jatinder Singh, Anshuman Kundan, Devinder Sandhu and Baljit Singh Sandhu are party to the compromise Ex.C1. It also emerges from the statement of Investigating Officer that none of the above said accused has been declared proclaimed offender in this FIR and that the above said accused are not involved in any other case. It is further submitted that the petitioners Rohit Dhammi etc. have also placed on record a receipt showing that they have deposited a sum of Rs.10,000/- as costs with Poor Patient Assistance Cell, Postgraduate Institute of Medical Education and Research, Nehru Hospital, Chandigarh, as imposed by the Hon'ble High Court. Statements of the parties, in original and receipt of Rs.10,000/- as costs, are attached herewith."

5. 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.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 22.01.2021 (Annexure P-4).

7. I have heard learned 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 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.*

10. Consequently, the petition is allowed. FIR No.01 dated 01.01.2021 registered for the offences punishable under Sections 420/120-B of the Indian Penal Code and Section 24 of Immigration Act at Police Station Division No. 8 Ludhiana (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

26.07.2023

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>