

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

242

CRM-M-5114-2023

Date of decision : 21.07.2023

Harjit Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vishal Khatkar, Advocate for
Mr. Deepak Goyal, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Mukesh Yadav, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.93 dated 23.11.2022, registered for the offences punishable under Sections 458, 323, 325, 427, 148 and 149 of IPC at Police Station Sherpur, District Sangrur on the basis of compromise dated 10.01.2023 (Annexure P-2).

2. On 01.02.2023, the following order was passed:-

“Prayer in this petition under Section 482 Cr.P.C. is for quashing of FIR No.93 dated 23.11.2022 under Sections 458, 323, 325, 427, 148, 149 IPC, Police Station Sherpur, District Sangrur, registered at the instance of respondent No.2 along with all the subsequent proceedings arising therefrom, on the basis of compromise dated 10.01.2023 (P-2).

Notice of motion.

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Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State, whereas Mr. Mukesh Yadav, Advocate on behalf of respondent No.2 and files Power of Attorney. The same is taken on record. Be tagged at appropriate place.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court on 09.02.2023 or any other date convenient to the court, which shall record their statements and send a report to this Court to the effect as to whether the compromise is genuine, without any pressure or undue influence and also whether any accused was declared as proclaimed offender, till the next date of hearing.

For report, to come up on 15.03.2023.”

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

“xx xx xx

2. Statement of Malkeet Kaur (complainant) wife of late Gardev Singh and statement of accused namely Harjit Singh son of Binder Singh, Jagtar Singh, Gora Singh, Gurmeet Singh all sons of Chand Singh and Sandeep Singh son of Gora Singh, all residents of village Tibba Tehsil Dhuri have been recorded. Complainant Malkeet Kaur has suffered statement that the present FIR No. 93 dated 23.11.2022 was registered against accused person namely Harjit Singh son of Binder Singh, Jagtar Singh, Gora Singh, Gurmeet Singh all sons of Chand Singh and Sandeep Singh son of Gora Singh, all residents of village Tibba Tehsil Dhuri. She further stated that she has compromised the matter with said accused persons

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without any pressure or coercion any misrepresentation or undue influence and without any greed. She further stated that the compromise is genuine one, voluntarily and without any coercion or any undue influence and the same is valid. She further stated that she do not want to proceed further against the acused persons namely Harjit Singh son of Binder Singh, Jagtar Singh, Gora Singh, Gurmeet Singh all sons of Chand Singh and Sandeep Singh son of Gora Singh, all residents of village Tibba Tehsil Dhuri and she has no objection if the quashing petition filed by the accused persons will be allowed and the proceedings of the FIR has been quashed. She was duly identified by her Advocate Sh. Navdeep Singh Changli.

3. Accused namely Harjit Singh son of Binder Singh, Jagtar Singh, Gora Singh, Gurmeet Singh all sons of Chand Singh and Sandeep Singh son of Gora Singh, all residents of village Tibba Tehsil Dhuri have suffered their joint statement that they have voluntarily compromised the matter with the complainant without any pressure or coercion any misrepresentation or undue influence and without any greed. They further stated that the compromise is genuine one, voluntarily and without any coercion or any undue influence and the same is valid. They further prayed that present FIR kindly be quashed. They further stated that there is no criminal proceeding pending between them and the complainant and none of the us have been declared proclaimed offender in the present FIR. They were duly identified by Sh. Amandeep Singh Rajput Advocate.”

4. Mr. Mukesh Yadav, 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 petitioners 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) 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.

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- (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.

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- (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.93 dated 23.11.2022, registered for the offences punishable under Sections 458, 323, 325, 427, 148 and 149 of IPC at Police Station Sherpur, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

21.07.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No