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

**CRM-M-5389-2023
Date of decision : 04.10.2023**

SHAMSHER SINGH ALIAS SHERU

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Armaan Gagneja, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. M.S. Batth, Advocate for
Mr. Gunjeet Brar, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0097 dated 23.12.2022 registered for the offence punishable under Section 325 of Indian Penal Code (Section 201 IPC added later on) at Police Station Sadar Abohar, District Fazilka (Annexure P-1) on the basis of compromise.

2. On 28.02.2023, the following order was passed :-

“Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.0097 dated 23.12.2022 (Annexure P-1) registered under Section 325 of Indian Penal Code (Section 201 IPC added later on) at Police Station Sadar Abohar, District Fazilka along with all consequential proceedings therefrom on the basis of compromise dated 22.01.2023 (Annexure P-2) entered into between the parties.

Adjourned to 19.04.2023.

In the meanwhile, the parties are directed to appear before Illaqa Magistrate/trial Court for recording of their respective statements with regard to compromise, on 23.03.2023.

The Illaqa Magistrate/trial Court is directed to submit a report containing the following information:-

- (i) *Number of persons arrayed as accused in FIR and those found involved during investigation;*
- (ii) *What is the status of the proceedings of the case/FIR.*
- (iii) *Whether any accused is proclaimed offender.*
- (iv) *Whether the accused persons are involved in any other case or not;*
- (v) *Whether all the concerned have signed the compromise deed;*
- vi) *Whether the compromise is genuine, voluntary, and without any coercion or undue influence;*
- vii) *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.*

The afore-made report be ensured to be sent to this Court on or before the next date of hearing fixed before this Court. ”

3. Pursuant to the aforesaid order, report from JMIC, Abohar dated 26.05.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“It is submitted that the present FIR was registered against only one accused person by name i.e. Shamsheer Singh @ Sheru.

ii. No challan has been presented by the police authorities till date.

iii. It is further submitted that as per the statement of

investigating officer, none of the accused has been declared proclaimed offender in the present FIR.

iv. It is further submitted that as per the statement of investigating officer, none of the accused has been involved in any other FIR.

v. It is further submitted that all the concerned parties have signed the compromise deed.

vi. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, voluntary and without any coercion of undue influence.

viii. It is further submitted that as per statement of investigating officer, there is no other victim/complainant in the present FIR except the complainant Hardev Singh.”

4. Ld. Counsel appearing 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 petitioner 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.0097 dated 23.12.2022 registered for the offence punishable under Section 325 of Indian Penal Code (Section 201 IPC added later on) at Police Station Sadar Abohar, District Fazilka (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 04, 2023

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No