

270 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4127-2019

Date of decision : 12.10.2023

MECHAL

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ramandeep Kaur, Advocate for
Ms. Himani Kapila, Advocate for the petitioner.
Mr. Kunal Vinayak, AAG, Punjab.

None for respondent No.2

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.19 dated 25.01.2017 registered for offences punishable under Sections 279, 337 and 338 of IPC, at Police Station Dinanagar, District Gurdaspur (Annexure P-1) on the basis of compromise.

2. On 19.09.2022, the following order was passed :-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.19 dated 25.01.2017 under Sections 279, 337 and 338 of IPC, registered at Police Station Dinanagar, District Gurdaspur and all other consequential proceedings arising therefrom, on the basis of compromise deed dated 11.01.2019 (Annexure P-2) arrived at between the parties.

As per office report, service is complete, however, no one has put in appearance on behalf of respondent No.2.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 29.09.2022 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iii) status/stage of the trial/case;
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing. Adjourned to 18.11.2022.”

3. Pursuant to the aforesaid order, report from JMIC, Gurdaspur dated 13.10.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“It is further submitted that from the statements of the parties, it appears that compromise is genuine, voluntary and without any pressure, coercion and undue influence.

It is further submitted that from the report of retired Inspector Baldev Raj and MHC Sunny Bains that FIR No.19 dated 25.01.2017 P.S. Dinanagar under Sections 279, 337, 338 IPC was registered against the accused namely Mechal in the present case and he has not declared proclaimed person as per his statement and further no criminal proceedings is pending among the accused and complainant/respondent2 Hardeep Singh at Police Station Dinanagar District Gurdaspur. The statement of Retired Inspector Baldev Raj and MHC Sunny Bains with regard to the above noted facts have been recorded. **The copies of the statement of the parties are enclosed herewith.”**

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.19, dated 25.01.2017 registered for offences punishable under Sections 279, 337 and 338 of IPC, at Police Station Dinanagar, District Gurdaspur (Annexure P-1) (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 12, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No