

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

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CRM-M-5350-2023

Date of decision : 16.08.2023

Naresh Kumar

..... Petitioner

versus

U.T. Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Anirudh Gupta, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. PP, U.T. Chandigarh.

Mr. Jaishree Kaushik, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.293 dated 30.10.2016, registered for offences punishable under Sections 279 and 337 of IPC at Police Station Sector-31, Chandigarh, on the basis of compromise deed dated 02.12.2022 (Annexure P-2).

2. On 17.05.2023, the following order was passed:-

“CRM-15743-2023

This application has been filed for grant of one more opportunity to the parties to get their statements recorded.

It has been submitted that on account of roka ceremony of the daughter of the applicant, he could not appear on the date fixed. So that, the complainant side is not unconvinced, information was given to them as well. The present application has been filed soon thereafter and thus, one more opportunity may be granted to the parties to record their statements.

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Notice of the application.

Mr. Rajiv Vij, Addl. PP, for UT Chandigarh accepts notice on behalf of respondent No.1 and waives service.

Mr. A.K. Gupta, Advocate, accepts notice on behalf of respondents No.2 & 3 and waives service.

The application is allowed.

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The parties are again directed to appear before the trial Court/Illaq Magistrate on 14.07.2023 for getting their statements recorded. After recording the statements of the parties, the trial Court/Illaq Magistrate shall send a report to this Court regarding genuineness of compromise between them well before the next date of hearing.

Adjourned to 16.08.2023.”

3. Pursuant to the aforesaid order, report dated 20.07.2023 from JMIC, Chandigarh has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

i) The assessment regarding the veracity of compromise, is that the same is genuine, voluntary and out of free will.

(ii) All the parties to the case have entered into compromise.

(iii) As per the terms and conditions, the compromise is full and final and not partial one.”

4. Mr. Jaishree Kaushik, Advocate appears for respondents No.2 & 3 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) 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

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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.293 dated 30.10.2016, registered for offences punishable under Sections 279 and

337 of IPC at Police Station Sector-31, Chandigarh and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

16.08.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No