

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-5087-2023

Date of decision : 31.07.2023

Jaspal Singh @ Pappa and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Baljinder Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. V.S. Rana, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.169 dated 18.09.2022, registered for the offences punishable under Sections 115 and 120-B of IPC at Police Station Kotbhai, District Sri Muktsar Sahib on the basis of panchayati compromise dated 04.01.2023 (Annexure P-2).

2. On 28.03.2023, the following order was passed:-

“CRM-13475-2023

The instant application has been filed under Section 482 Cr.P.C. for placing on record replies by way of affidavits of respondents No.2 to 4.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions.

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Prayer in the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, is for quashing

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of FIR No.169 dated 18.09.2022, registered under Sections 115 and 120-B of the Indian Penal Code at Police Station Kotbhai, District Sri Muktsar Sahib (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise dated 04.01.2023 (Annexure P-2).

Respondents No.2 to 4 have filed their respective affidavits stating that FIR No.169 dated 18.09.2022, under Sections 115, 120-B IPC was registered on statement of Jaskaran Singh (respondent No.2) and with the intervention of respectables and with free will of respondents No.2 to 4, the matter has been amicably settled vide compromise dated 04.01.2023 (Annexure P-2) and they have no objection if abovesaid FIR is quashed.

List on 18.05.2023.

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 21.04.2023 or any other date convenient to the Court.

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;

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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 dated 09.05.2023 from JMIC, Gidderbaha has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

(i) Three persons namely Jaspal Singh @ Pappa, Rampreet Singh and Gurpreet Singh are arrayed as accused in the present FIR.

(ii) As per statement of Investigating Officer and report of Ahlmad, challan in this FIR has been presented in the Court and same has been submitted and now the same is pending for 16.05.2023 for prosecution evidence in the Court of Learned Sessions Judge, Sri Muktsar Sahib

(iii) As per the statement of Investigating Officer, none of the accused has been declared proclaimed offender.

(iv) As per the statement of Investigating Officer, no other criminal case is pending against accused Jaspal Singh @ Pappa. However, another FIR no. 179/2020 under Section 379-B of IPC is pending trial against accused Rampreet Singh.

(v) Perusal of copy of compromise deed Ex. CX placed on record reveals that same bears the signatures of complainant Jaskaran Singh and Victim Bhinder Singh and of accused Jaspal Singh @ Pappa and Rampreet Singh.

The same does not bear the signatures of victim Ravinder Singh, who is respondent no. 4 in the petition filed before the Hon'ble High Court.

(vi) In the given circumstances, I am satiated that compromise has been effected between complainant Jaskaran Singh, Bhinder Singh and Ravinder Singh and accused persons namely Jaspal Singh @ Pappa and Rampreet Singh amicably, with their free consent, without any pressure and the same appears to be genuine, voluntary and without any pressure, threat coercion or undue influence and they got their statements recorded before the Court voluntarily.

(vii) As per statement of I.O. and respondent no. 2 to 4 themselves, Jaskaran Singh, Bhinder Singh and Ravinder Singh, who are respondent no. 2 to 4 in the petition before Hon'ble High Court, are the only victims/complainants in the present FIR.”

4. As per the report of the trial Court that in the compromise deed, it does not contain the signature of victim Ravinder Singh-respondent No.4. However, the statement recorded by the abovesaid victim is duly signed.

5. Mr. V.S. Rana, Advocate appears for respondents No.2 to 4 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.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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 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.

10. Consequently, the petition is allowed. FIR No.169 dated 18.09.2022, registered for the offences punishable under Sections 115 and 120-B of IPC at Police Station Kotbhai, District Sri Muktsar Sahib and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

31.07.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No