

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

**CRM-M-6061 of 2023
DATE OF DECISION :- 21.09.2023**

Jashanpreet Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Prince Sharma, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Shivam Kamboj, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

Status report by way of affidavit filed by Jaspal Singh, PPS, Deputy Superintendent of Police, Sub-Division Patti, District Tarn Taran filed. The same is taken on record.

2. By way of present petition, the petitioners are seeking partially quashing of FIR No.74 dated 28.5.2022, registered for the offence punishable under Sections 336/506/148/149 of the Indian Penal Code and Sections 25/27 of the Arms Act, 1959, Police Station Sadar Patti, Tehsil Patti, District Tarn Taran, on the basis of compromise dated 21.1.2023 (Annexure P-2).

3.. On 13.7.2023, the following order was passed:-

“By way of present petition, the petitioners seek partial quashing of FIR No.74 dated 28.05.2022, registered for offences punishable under Sections 336/506/148/149 IPC & Sections 25/27 of Arms Act, 1959 at Police Station Sadar Patti, Tehsil Patti, District Tarn Taran, Punjab on the basis of compromise dated 21.01.2023 (Annexure P-2).

Counsel for the petitioners relies upon Lovely Salhotra & anr. Vs. State, NCT of Delhi (2018) 12 SCC 391 to submit that in such circumstances partial quashing is permissible.

Learned counsel for respondent No.2 has also supported the claim of the petitioners for quashing the FIR claiming that qua them the matter stands compromised.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 09.08.2023. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the FIR*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not?*
- 5. 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.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 21.09.2023.”

4. Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Patti dated 18.9.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Accordingly, fresh statement recorded, as per which petitioner No.2 Sarwan Singh Natural Guardian and Father of Jashanpreet Singh, (minor) Le petitioner No.1 appeared before the Court of Dr. Harsimrandeep Kaur, Ld. JMIC, Patti on 06.09.2023 again for recording his statement on behalf of his son Jashanpreet Singh (minor) as well as on his own behalf with regard to compromise and got recorded in his statement that the matter has been compromise with the complainant Ninder Singh with the intervention of respectable and compromise has been effected with free will, mutual consent and without any threat of undue influence. As such, the FIR registered against his son Jashanpreet Singh (minor) be quashed. On the other hand, complainant/respondent No.2 Ninder Singh also appeared before the Court of Dr. Harsimrandeep Kaur, Ld. JMIC, Patti on 06.09.2023 and again recorded his statement that the matter has been compromise with the accused Jashanpreet Singh (minor), Mahabir Singh and Ravinder Singh with the intervention of respectable and compromise has been effected with free will, mutual consent and without any threat of undue influence. As such, the FIR registered against Jashanpreet Singh (minor) petitioner No.1 be quashed. From the statement of the parties, I am satisfied that a valid and genuine compromise has been effected between the parties as per their fresh statements recorded in the Court of Ms. Harsimrandeep Kaur Ld. JMIC, Patti on 06.09.2023, the aforesaid compromise appears to be genuine one and the same has been entered into

voluntarily with free will of the parties without any threat or coercion or undue influence or pressure of any kind. The report is submitted accordingly along-with original statements of Parties as well statement of I.O./ASI Bakshish Singh No.688/T.T”

5. The aforesaid report reveals that there are three accused persons namely Jashanpreet Singh, Mahabir Singh and Ravinder Singh and compromise has been effected with all the accused persons.

6. Mr. Shivam Kamboj, 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.

7. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

8. I have heard learned counsel for the parties and have carefully gone through the records of the case.

9. 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.*

10. 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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Pawandeep Singh and Dinesh Kumar and it is only Suresh Kumar Bansal who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Suresh Kumar Bansal only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“XX XX XX

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 –

herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.74 dated 28.5.2022, registered for the offence punishable under Sections 336/506/148/149 of the Indian Penal Code and Sections 25/27 of the Arms Act, 1959, Police Station Sadar Patti, Tehsil Patti, District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

21.09.2023

p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No