

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

CRM-M-6070-2023

Date of decision : 17.08.2023

GURSHARAN SINGH ALIAS SHARAN ALIAS SHARNA

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Saransh Sabharwal, Advocate for
Ms. Navneet Kaur, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0143 dated 16.10.2017 registered for the offences punishable under Sections 341, 323, 427, 379-B, 148 and 149 of the Indian Penal Code (Section 379-B of IPC deleted later on) at Police Station Mamdot, District Ferozepur (Annexure P-1) on the basis of compromise.

2. Status report by way of affidavit of Sandeep Singh, Deputy Superintendent of Police (Rural) Ferozepur has been filed on behalf of respondent No.1-State of Punjab, today in Court. The same is taken on record.

3. On 06.02.2023, the following order was passed :-

“Present petition has been filed under Section 482 of

Cr.P.C. seeking quashing of FIR No. 143 dated 16.10.2017 registered under Sections 341, 323, 427, 379-B, 148 and 149 of the Indian Penal Code (Section 379-B of IPC deleted later on) at Police Station Mamdot, District Ferozepur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 17.01.2023 (Annexure P-2).

Learned counsel for the petitioner submits that the dispute has been amicably settled between the parties in terms of the compromise (Annexure P-2).

Notice of motion.

Mr. P.S. Grewal, DAG Punjab, who is present in the Court accepts notice on behalf of respondent No. 1-State and seeks time to file reply/status report.

Ms. Navneet Kaur, Advocate has put in appearance on behalf of respondent No. 2, accepts notice on his behalf and admitted the factum of compromise.

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court to get their statement(s) recorded with regard to compromise/settlement within a period of 30 days from today.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arraigned as accused in 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 and apprise this Court about the stage of proceedings?*

The report of the Illaqa Magistrate/trial Court be awaited for 13.04.2023.

Status report/reply on behalf of State be also filed on the adjourned date. ”

4. Pursuant to the aforesaid order, report from JMIC, Ferozepur

dated 10.03.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- “i) As per statement made by both the parties and I.O of this case there are four accused namely Gursharan Singh @ Sharan @ Sharna, Nishan Singh, Sukhwinder Singh @ Sonu and Surinder Singh @ Happy but only one accused namely Gursharan Singh @ Sharan @ Sharna has come to give statement.
- ii) As per statement of I.O and both the parties none of the accused has been declared offender.
- iii) Compromise is genuine, voluntary and without any coercion or undue influence.
- iv) As per statement of I.O Surinder Singh @ Happy is involved in other case and he is confined in Central Jail Ferozepur.
- v) As per statement of Investigating Officer ASI Balwant Singh there is only one complainant namely Narinder Singh son of Pritam Singh and further investigation report u/s 173 IPC is already presented in the Court. ”

5. The aforesaid report reveals that there are four accused persons namely Gursharan Singh @ Sharan @ Sharna, Nishan Singh, Sukhwinder Singh @ Sonu and Surinder Singh @ Happy. However, the compromise has only been effected with accused-petitioner Gursharan Singh @ Sharan @ Sharna.

6. 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.

7. Similarly Ld. State Counsel has stated no objection in case the

FIR is quashed based upon the compromise.

8. I have heard Ld. 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.

11. 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, Nishan Singh, Sukhwinder Singh @ Sonu and Surinder Singh @ Happy and it is only Gursharan Singh @ Sharan @ Sharna who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Gursharan Singh @ Sharan @ Sharna only.

12. 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*.”

13. Consequently, the petition is allowed. FIR No.0143 dated 16.10.2017 registered for the offences punishable under Sections 341, 323, 427, 379-B, 148 and 149 of the Indian Penal Code (Section 379-B of IPC

deleted later on) at Police Station Mamdot, District Ferozepur (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

August 17, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No