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

**CRM-M-5657-2020
Date of decision : 09.10.2023**

CHANDAN RAM

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Paramveer S. Saroa, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Pardeep K. Kapila, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0004, dated 2nd of January, 2020 registered for the offences punishable under Sections 420, 120-B of the IPC & Section 24 of Immigration Act, at Police Station Division No.5, Ludhiana (Annexure P-1) on the basis of compromise.

2. On 19th of March, 2020, the following order was passed :-

“Pursuant to order dated 10.2.2020, the petitioner has deposited the amounts as was directed in the said order. The receipts in respect of the said deposits have been furnished by learned counsel for the petitioner today in Court, which are taken on record.

List on 13.7.2020.

The parties are directed to appear before the Illaqa

Magistrate/trial Court on **13.5.2020** for getting their statements recorded qua the factum of compromise.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

The Illaqa Magistrate/trial Court shall also furnish the following information:-

1. Whether there is any other accused other than the petitioner, arrayed in this petition?
2. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition? ”
3. However, statements could not be recorded owing to Covid-19 pandemic and vide order dated 19th of March, 2021 the parties were again directed to appear before the Trial Court/Area Magistrate for recording of their statements.
4. Pursuant to the aforesaid order, report from ACJM, Ludhiana dated 30th of April, 2021 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In view of the above referred statements, after hearing the parties and going through the record, report is submitted as under: (i) There are total three accused namely Chandan Ram son of Sh.Shiv Ram, Kamaldeep Kaur daughter of Sh. Sukhdev Singh and Gagandeep Singh son of Sh. Jagmeet Singh, in this case and no one is facing the trial as report u/s 173 Cr.P.C. has not been presented before the court. (ii) None of the accused has been declared proclaimed offender in this case at any stage.

(iii) Since challan under Section 173 Cr.P.C. has not been

presented in the court, trial has not been begun. As such, matter is at the stage of awaiting of challan.

(iv) Out of above three accused, compromise has been effected only with one accused i.e. Chandan Ram son of Sh. Shiv Ram, who is petitioner before the Hon'ble High Court and compromise is volunteer, genuine, valid and without any pressure or coercion.

However, this court can not comment regarding compromise of the complainant with other two accused persons namely Kamaldeep Kaur daughter of Sh. Sukhdev Singh and Gagandeep Singh son of Sh. Jagmeet Singh as neither they appeared before this court nor complainant has given any statement regarding any compromise with them.”

5. The aforesaid report reveals that there are **three** accused persons namely Chandan Ram, Kamaldeep Kaur and Gagandeep Singh. However, the compromise has only been effected with accused-petitioner Chandan Ram.

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 present 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 *qua* rest of accused, namely, Kamaldeep Kaur and Gagandeep Singh and it is only Chandan Ram who

has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Chandan Ram 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.0004, dated 2nd of January, 2020 registered for the offences punishable under Sections 420, 120-B of the IPC & Section 24 of Immigration Act, at Police Station Division No.5, Ludhiana and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner namely Chandan Ram.

October 09, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No