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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 7902-2023
Date of decision : 11.12.2023

Sirtaj Singh @ Taj Singh and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.S. Sidhu, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Gurjeet Kaur, Advocate
for respondent Nos.2 & 3.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 117 dated 01.11.2015, registered for offences punishable under Sections 323, 452, 427, 148, 149 IPC 1860, Police Station Jhabhal, District Tarn Taran (Annexure P-1) on the basis of compromise dated 21.09.2021 (Annexure P-3).

2. On 09.05.2023 the following order was passed :

“This is an application under Section 482 Cr.P.C. to grant one more opportunity to the parties to appear before the trial Court/Illaq Magistrate for recording their statements.

For the reasons mentioned in the application, same is allowed.

In view of above, the parties are directed to appear before the Illaq Magistrate/trial Court to get their statement(s) recorded with regard to compromise/settlement within a period of 30 days in terms of order dated 14.02.2023.

Report of the Illaq Magistrate/trial Court be awaited for 20.07.2023.

Main Case

Short reply by way of an affidavit of Sh. Jaspal Singh, PPS, Deputy Superintendent of Police, Sub-division Tarn Taran, District Tarn Taran has been filed by State, which is taken on record.

List on 20.07.2023.

3. Pursuant to the aforesaid order, report dated 04.07.2023 from Judicial Magistrate 1st Class, Tarn Taran has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- 1. As per the statement of IO Si Kulwant Singh, No. 961/TT, that there are total 13 persons are arrayed as accused in the present FIR.*
- 2. As per the statement of IO Si Kulwant Singh, No. 961/TT, none of any accused has been declared Proclaimed offender in this case.*
- 3. As per the statements of both the parties and SI Kulwant Singh, No. 961/TT the compromise to the petition is genuine, voluntarily and out of free will.*
- 4. As per the statement of SI Kulwant Singh, No. 961/TT that the accused are not involved in any other case.*
- 5. As per the statement of SI Kulwant Singh, No. 961/TT that there are total 3 victims/complainants in the present case and the trial is at the stage of prosecution evidence.*

4. Learned counsel for respondent Nos.2 & 3 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.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 21.09.2021 (Annexure P-3).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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.

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) i.e. heinous offence.*
- (ii) *The offences alleged 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 is reported to have entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No. 117 dated 01.11.2015, registered for offences punishable under Sections 323, 452, 427, 148, 149 IPC 1860, Police Station Jhabhal, District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

11.12.2023
Anu

(PANKAJ JAIN)
JUDGE

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