

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

**CRM-M-20136-2018 (O&M)
Date of decision : 06.12.2023**

Mahipal

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Saurabh Sharma, Advocate and
Mr. Mehtab Kamboj, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Aditya Jain, Advocate
for the respondent No.2

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0071 dated 03.03.2018, registered for offences punishable under Sections 120-B, 406, 420, 467, 471 of IPC, 1860 at Police Station Bhupani, District Faridabad on the basis of compromise.

2. On 03.10.2023, the following order was passed :

“Counsel are ad-idem that the parties have entered into compromise dated 15.2.2021 placed on record as Annexure R/2-1 along with reply preferred by respondent No. 2.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/Duty Magistrate on 16.10.2023.

On their doing so, the learned Illaqa Magistrate/Duty Magistrate 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 Illaqa Magistrate/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 6.12.2023.”

3. Pursuant to the aforesaid order, report dated 17.10.2023 from Civil Judge (Jr. Division)-cum-Judicial Magistrate 1st Class, Faridabad has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ In reference to the above cited subject, I have the honour to submit that in pursuance to order dated 3.10.2023 passed by Hon'ble High Court, the complainant Alimuddin, accused person Mahipal and Investigating Officer P/SI Tejvir appeared before the court and their statements have been recorded. The parties have relied upon their Aadhar card for identification, copies of which are placed on record.

(ii) The complainant Alimuddin and the accused person namely Mahipal have suffered their statements that they have settled their disputes amicably with the interference of elders and respectable persons of the society. They have entered into compromise on their sweet will, without any fear or pressure from anyone. Complainant stated that he has entered into compromise with the accused person/petitioner namely Mahipal and Gajraj & Ram Sewak, (originally arrayed as accused in the present FIR) at his sweet will, without any fear or pressure from any quarters. Accused further stated that he has not been declared PO and no such proceedings are pending against him before any competent Court of law and not involved in any other case. Both sides were duly identified by their respective counsels.

(iii)As per statement of Investigating Officer, FIR was registered against three accused namely Mahipal, Gajraj and Ram Sewak.

(iv) As per statement of accused, he has not been declared PO and no such proceedings are pending against him before any competent court of law,

(v) I asked the parties regarding compromise. They stated at bar, in consonance with their statements, that they have settled their dispute by entering into compromise which is acceptable to both of them voluntarily and without any pressure, with intervention of respectable persons of society. They further stated that all their disputes have been put to rest and they have no grudge against each other. The complainant Alimuddin further submitted that he has no objection if the proceedings of this case qua accused person are quashed by Hon'ble High Court.

(vi) As per statement of accused, he has not involved in any other case.

(vii) As per statement of Investigating Officer only one victim/complainant namely Alimuddin is there in the FIR

(viii) This Court is of the considered view that the compromise appears to be genuine and has been reached voluntarily, without any pressure or undue influence between the complainant namely Alimuddin and the accused person namely Mahipal and they have made their statements voluntarily and without any threat, inducement, coercion or undue influence. Hence, the compromise is genuine and voluntary.

Statements of the complainant Alimuddin, accused person Mahipal and Investigating Officer P/SI Tejvir dated 16.10.2023 are enclosed with the present report in compliance of order of Hon'ble High Court dated 3.10.2023."

4. Learned counsel 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.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 15.02.2021.

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.0071 dated 03.03.2018, registered for offences punishable under Sections 120-B, 406, 420, 467, 471 of IPC, 1860 at Police Station Bhupani, District Faridabad and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

06.12.2023
jyt

(PANKAJ JAIN)
JUDGE

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