

272

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

CRM-M-13560-2023
Date of decision : 24.08.2023

SAHIL AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Pranshul Dhull, Advocate for the petitioners.

Mr. R.K. Ambavta, AAG, Haryana.

Ms. Khyati Oberoi, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0003 dated 04.1.2023 registered for the offence punishable under Sections 34, 379-A I.P.C. at Police Station, Sector 37, District Gurugram (Annexure P-1) on the basis of compromise.

2. On 17.03.2023, the following order was passed :-

“The petitioners have filed the present petition seeking quashing of FIR No.0003 dated 4.1.2023 under Sections 34, 379-A I.P.C., registered at Police Station, Sector 37, District Gurugram and subsequent proceedings arising therefrom, on the basis of the compromise dated 21.2.2023 (Annexure P-2). Learned counsel for the petitioners submits that parties have amicably settled their dispute and they have arrived at a compromise. Counsel submits that prosecution of the petitioners in the present FIR is nothing but an abuse of the process of law. Notice of motion. On the asking of

the Court, Mr. B.S. Virk, D.A.G., Haryana accepts notice on behalf of respondent No.1 and Mr. Kamal Gupta, Advocate accepts notice on behalf of respondent no.2. Learned counsel for respondent no.2 has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties. Adjourned to 17.7.2023. In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 29.3.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case. The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court. ”

3. Pursuant to the aforesaid order, report from JMIC, Gurugram dated 11.07.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In furtherance of the said directions statements of parties viz of complainant Manoj and accused Munna @ Sahil & Sahil, duly identified were recorded. It has been verified that both the complainant and the accused have entered into compromise voluntarily, out of free will and the same is genuine, without any fraud or misrepresentation. Further, statement of I.O. ASI Jaswant is also recorded to the effect that on receiving complaint on from Manoj Yadav 04.01.2023, the present FIR was registered against accused Munna @ Sahil and challan was submitted qua accused persons in Court on 24.02.2023. The IO further submitted that no PO proceeding is pending against the accused persons and they are not involved in any other case”

4. 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 petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

7. 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.

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).
- (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.

9. Consequently, the petition is allowed. FIR No.0003 dated 04.1.2023 registered for the offence punishable under Sections 34, 379-A I.P.C. at Police Station, Sector 37, District Gurugram (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

August 24, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No