

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

CRM-M-23609-2017

Date of decision : 29.08.2023

Khushpreet Singh and others

..... Petitioners

versus

State of Punjab & another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Anil K. Sokail, Advocate for
Mr. Ankit Grewal, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Aarushi Garg, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioner is seeking quashing of FIR No. 0074 dated 08.05.2016 registered for the offences punishable under Sections 307, 452, 324, 323, 148 and 149 IPC at Police Station Maur, District Bathinda on the basis of compromise.

2 On 29.05.2023, the following order was passed :-

“This is an application for impleading one of the victim Satnam Singh as respondent No.4 to the main petition.

On the asking of the Court, Mr. Chaman Lal Pawar, Addl. A.G. accepts notice on behalf of State of Punjab and Mr. Aman Raj Bawa, Advocate for respondents No.2 and 3, who have pleaded no objection if the application is allowed.

In view of the above, Satnam Singh son of Sewak Singh is impleaded as respondent No.4.

Amended memo of title is ordered to be taken on record.

CRM-23647-2023

Allowed as prayed for and documents Annexure P-7 to Annexure P-11 are ordered to be taken on record subject to all just

exceptions.

On the request of counsel for the parties main petition is ordered to be taken on record.

Main Case

In the view of the fact that parties have entered into compromise, parties are directed to appear before the learned trial court/Illaq Magistrate on 12.7.2023 or any other date convenient to the Court and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with its report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 5. Total number of victims and their names.*

To come up on 29.8.2023 for awaiting the report.

The State counsel is also directed to verify about the factum of compromise by that date.

A copy of this order be sent to the learned trial Court/Illaq Magistrate, through electronic mode, for compliance.”

3. Pursuant to the aforesaid order, report from the Judicial Magistrate 1st Class, Talwandi Sabo dated 20.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Respected Sir, the report is submitted as under-

- (1) Five persons namely Khushpreet Singh, Jaspreet Singh, Amanpreet Singh, Sukhwinder Singh and Yadwinder singh have been arrayed as accused in the present FIR.*
- (2) As per the statement of Investigating Officer, the accused persons are not proclaimed offenders.*
- (3) In the present case, the report under Section 173 Cr.P.C. is yet to be presented before the Court.*
- (4) From the Statement of parties it has been observed that compromise between accused persons namely Khushpreet Singh,*

Jaspreet Singh, Amanpreet Singh, Sukhwinder Singh and Yadwinder Singh and complainant/victims Baljeet Singh, Sewak Singh and Satnam Singh is genuine, voluntary and without any pressure, coercion or undue influence.

(5) As per the statement of Investigating Officer, there is three victims namely Baljeet Singh, Sewak Singh and Satnam Singh, in the present case.

5. *Report is submitted accordingly for you kind consideration please.”*

4. Learned counsel for respondents No.2 to 4 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 is quashed.

5. Learned State counsel does not dispute that though initially the FIR was registered under Section 307 IPC but during the investigation, offence punishable under Section 307 IPC stands deleted. Thus, the same would not be hit by the case of ***State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688.***

6. I have heard learned 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. 0074 dated 08.05.2016 registered for the offences punishable under Sections 307, 452, 324, 323, 148 and 149 IPC at Police Station Maur, District Bathinda on the basis of compromise dated 28.02.2017 (Annexure P-4) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

29.08.2023
Mehak

Whether speaking/reasoned	Yes
Whether Reportable :	No