

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

**CRM-M-14644 of 2023
DATE OF DECISION :- 25.09.2023**

Nitish Bawa @ Nitish Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Dhiraj Jindal, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Vinod Kumar Sharma, Advocate for respondents.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.0148 dated 4.10.2022, registered for the offence punishable under Sections 279, 338, 427, 337 of the Indian Penal Code, Police Station Sadar Patiala, District Patiala, on the basis of compromise dated 7.10.2022 (Annexure P-2).

2. On 23.3.2023, the following order was passed:-

“Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.0148 dated 04.10.2022, registered under Sections 279, 338 and 427 of the Indian Penal Code, 1860, at Police Station Sadar Patiala, District Patiala (Annexure P-1), on the basis of compromise dated 07.10.2022 (Annexure P-2) arrived at between the parties along with all subsequent proceedings arising therefrom.

Notice of motion for 18.05.2023.

Mr. Subhash Godara, Additional Advocate General, Punjab, waives service on behalf of respondent No. 1 – State of Punjab

and seeks time to file status report.

Mr. Vinod Kumar Sharma, Advocate, puts his appearance, and has filed his 'Vakalatnama' on behalf of respondent No.2 in the Court and the same is taken on record, subject to all just exceptions.

In the meanwhile, the parties are directed to appear before concerned Illaqa Magistrate/trial Court for recording of their respective statements with regard to compromise, on 17.04.2023 or any other date convenient to it.

The Illaqa Magistrate/trial Court is directed to submit a report containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR and those found involved during investigation;*
- (ii) What is the status of the proceedings of the case/ FIR.*
- (iii) Whether any accused is proclaimed offender;*
- (iv) Whether the accused persons are involved in any other case or not;*
- (v) Whether all the concerned have signed the compromise deed;*
- (vi) Whether the compromise is genuine, voluntary, and without any coercion or undue influence;*
- (vii) 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.*

The afore-made report be ensured to be sent to this Court on or before the date fixed."

3. Pursuant to aforesaid order the parties could not appear before the trial Court/Illaqa Magistrate concerned for getting their respective statements recorded and one more opportunity was given to record their statements.

4. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate Patiala dated 12.7.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

"1. There is only one person arrayed as accused namely Nitish Bawa in the present FIR. Only Nitish Bawa was found to be involved in the present case during investigation.

2. *The present case is fixed for the evidence of the prosecution.*
3. *Accused has not been declared as proclaimed offender in this case and no such proceeding is pending qua him.*
4. *No criminal proceedings have been initiated or pending against the present accused relating to police station Sadar, Patiala.*
5. *From the statement of the Petitioner and the respondent which has been recorded before the undersigned it is found that both petitioner and respondent have signed the compromise deed. Thus, all the concerned have signed the compromise deed.*
6. *Ex-facie, it transpires from the statements of the parties (recorded in the court) that they have arrived at compromise with their free volition, without any inducement, threat, promise, coercion or undue influence from any quarter. Apparently, the compromise has been genuinely arrived at to eliminate bitterness and acrimony between the parties and in order to restore cordial relations among them and is without any coercion or undue influence.*
7. *It is further found from that there is only one victim/complainant Jagtar Singh in the present case."*

5. Mr. Vinod Kumar Sharma, Advocate appears for respondent No.2 and 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.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. 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.*

10. Consequently, the petition is allowed. FIR No.0148 dated 4.10.2022, registered for the offence punishable under Sections 279, 338, 427, 337 of the Indian Penal Code, Police Station Sadar Patiala, District Patiala and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

25.09.2023

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No