

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

234

CRM-M-2524-2018 (O&M)

Date of decision: 04.08.2023

NAIB SINGH AND ORS

...Petitioners

VERSUS

STATE OF PUNJAB AND ORS

...Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Mandeep Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Karandeep Singh, Advocate
for respondents No.2 to 34.

PANKAJ JAIN, J.(ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.15 dated 10.01.2018 registered for the offences punishable under Sections 420 & 120-B of IPC and Sections 4 & 5 of Prize Chits and Money Circulation Schemes (Banning Act) 1978 at Police Station City Sangrur, District Sangrur on the basis of compromise dated 15.01.2018 (Annexure P-1).

2. In compliance of order dated 24.07.2023, petitioners No.1 & 2 have filed their respective affidavits in the Court today, the same are taken on record.

3. On 23.03.2023, the following order was passed :

“CRM-M-2524-2018 (O&M)

The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of F.I.R. No.15 dated 10.01.2018 under Sections 420 and 120-B of IPC and Sections 4 & 5 of Prize Chits and Money Circulation Schemes (Banning Act)

1978, registered at Police Station City Sangrur, District Sangrur, and all other consequential proceedings arising therefrom, on the basis of compromise dated 15.01.2018 (Annexure P-1) arrived at between the parties.

Learned counsel for the petitioners submits that he does not press this petition qua petitioner no.3.

Learned counsel for respondent nos.2 to 34 has affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 17.04.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial;*
- (iii) status/stage of the trial/case;*
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;*
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.*

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 24.07.2023.

CRM-M-13010-2017

Adjourned to 24.07.2023.

To be heard along with CRM-M-2524-2018.

Photocopy of this order be placed on the file of other connected case.”

4. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Sangrur dated 12.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“The compromise as per statements of complainant/respondents Baldev Singh, Amarjit Kaur,

Amrik Singh, Harwinder Singh, Raja Singh, Ruldu Singh, Gian Singh, Harpreet Singh, Satnam Singh, Mukhtiar Singh, Gurpreet Singh, Balvir Singh, Sukha Singh, Baghera Singh. Buta Singh, Jagtar Singh, Bant Singh, Paramjit Singh, Mandeep Singh, Sarabjit Singh, Hemraj, Hardeep Kaur and Chamkaur Singh who were alleged to be allured by petitioner Naib Singh to invest the money and complainant/respondents Ranvir Singh, Gurmeet Kaur, Vipin Kumar, Mander Singh, Gurmail Singh, Bikkar Singh Pardeep Singh and Amarjit Kaur who were alleged to be allured by petitioner Gurmukh Singh to invest the money as well as accused Naib Singh and Gurmukh Singh has been arrived at voluntarily and without any pressure, undue influence or coercion between them. It is further stated that Surjit Kaur one of the respondent has died and her mother Gurmeet Kaur who was also one of the respondent in the present case has produced copy of death certificate of Surjit Kaur as Mark-B. Similarly, Rajinder Singh who was alleged to be allured by petitioner Naib Singh has also died and Gurwinder Singh his son has appeared and has stated that he has compromised the matter with accused Naib Singh and has produced the death certificate of his father Rajinder singh Ex. PX.

It is further urged that HC Parambir Singh No.1531/SGR. Police Station City, Sangrur has stated that F.I.R No. 15 dated 10.01.2018, under Sections 420, 120-B IPC and 4 and 5 of Prize Chits and Money Circulation Scheme Act was registered against accused Gursewak Singh Dhillon, Harpal Singh, Pardeep Singh, Swaran Singh, Naib Singh, Jagdeep Singh and Gurmukh Singh and accused Amandeep Singh was nominated lateron. Out of said accused, accused Swaran Singh was convicted and accused Pardeep Singh was acquitted on 16.10.2019, accused Jagdeep Singh has died proceedings against whom was abated vide order dated 02.12.2022. He has

further stated that accused Amandeep Singh, Gursewak Singh Dhillon alongwith (Naib Singh and Gurmukh Singh petitioners of present quashing petition) are facing the trial in the Court and accused Harpal Singh was declared as proclaimed offender on 06.08.2018. He has further stated that the case is pending for consideration on framing of charge against accused Gursewak Singh Dhillon as supplementary challan against him was presented lateron on his arrest.

The copies of statements of all the complainants/respondents as well as accused alongwith copy of statement of HC Parambir Singh, copies of compromise Mark-A, copy of death certificate of Surjit Kaur, Mark-B, copy of compromise Mark-C and copy of death certificate of respondent Rajinder Singh Ex.PX are enclosed herewith for your kind perusal.”

5. Learned counsel for respondent No.2 to 34 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 No.1 and 2 are quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 15.01.2018 (Annexure P-1).

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.15 dated 10.01.2018 registered for the offences punishable under Sections 420 & 120-B of IPC and Sections 4 & 5 of Prize Chits and Money Circulation Schemes (Banning Act) 1978 at Police Station City Sangrur, District Sangrur on the basis of compromise dated 15.01.2018 (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners No.1 & 2.

August 04, 2023

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(PANKAJ JAIN)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No