

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

CRM-M-16789-2023

Date of decision : 01.08.2023

Jatinder Kumar Mittal and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Swarn Tiwana, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.123 dated 23.09.2021, registered for offences punishable under Sections 406, 420, 465, 487, 468, 471 and 120-B of IPC, at Police Station Bhadson, District Patiala on the basis of compromise deed dated 07.12.2021 (Annexure P-2).

2. On 28.04.2023, the following order was passed:-

“CRM Nos.17881 and 17882 of 2023

Instant applications have been filed praying for preponement of the date of hearing of the main case from 10.08.2023 to an early date and thereafter to send the parties before the trial Court/Illaq Magistrate for getting recorded their statements.

Notice of the application to the respondents.

On asking of the Court, Mr.Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondents/State whereas Mr.Neeraj

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Januha, Advocate, accepts notice on behalf of respondent No.2 and submit that they have no objection if the case is preponed and parties be sent to the trial Court/Illaqa Magistrate for recording their statements.

After hearing counsel for the parties, both the applications are allowed. Main case is preponed to today and taken up on Board today itself.

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In view of the prayer made in CRM-17882-2023, both the parties are directed to appear before the concerned Illaqa Magistrate/Duty Magistrate on 17.05.2023 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 Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.

Adjourned to 01.08.2023.”

3. Pursuant to the aforesaid order, report dated 21.07.2023 from JMIC, Nabha has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1. With regard to the genuineness/correctness of the compromise:

Compromise has been effected between me and the

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accused persons with the intervention of relatives and respectable persons. The original compromise Ex. C1 is genuine.

2. Compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties;

The compromise has been effected without any coercion, fraud or misrepresentation between the parties with their free Will.

3. Besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR;

Besides the present accused Jatinder Kumar and Amandeep Singh, no other accused is involved in the present FIR.

4. The parties are not involved or declared proclaimed offender in any other criminal case;

The parties i.e. complainant and above said accused persons have not been involved or declared proclaimed offender in any other criminal case.

Both complainant namely Avtar Singh as well as accused persons namely Jatinder Kumar and Amandeep Singh appeared before the Court and made their statements in support of the compromise. The compromise appears to be genuine, voluntary and out of free will of the parties.”

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

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

6. 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

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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.

7. 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.

8. Consequently, the petition is allowed. FIR No.123 dated 23.09.2021, registered for offences punishable under Sections 406, 420, 465, 487, 468, 471 and 120-B of IPC, at Police Station Bhadson, District Patiala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

01.08.2023

Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No