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

**CRM-M-16192-2023
Date of decision : 04.10.2023**

KONARK SINGH AND ANR

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kushagra Mahajan, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ankush Rampal, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.719 dated 11.11.2016, under Section 420 of the Indian Penal Code, 1860, registered at Police Station Civil Lines, Police Commissionerate, District Amritsar (Annexure P-1) on the basis of compromise.

2. On 10.04.2023, the following order was passed :-

“Prayer in this petition is for quashing of the FIR No.719 dated 11.11.2016, under Section 420 of the Indian Penal Code, 1860, registered at Police Station Civil Lines, Police Commissionerate, District Amritsar (Annexure P-1), on the basis of the compromise dated 16.09.2022 (Annexure P-2) entered into between the parties.

Notice of motion.

On the asking of the Court, Mr. M.S. Nagra, A.A.G.,

Punjab, accepts notice on behalf of the respondent-State.

Mr. Ankush Rampal, Advocate has put in appearance on behalf of respondent No.2 and filed his Memorandum of Appearance, which is taken on record. He also admits the factum of compromise arrived at between the parties.

List on 14.07.2023.

Meanwhile, the parties are directed to appear before the learned trial Court/Area Magistrate on 18.05.2023 or any other convenient date to the Court and to get their statements recorded regarding the compromise.

The trial Court/Area Magistrate is directed to submit a report on or before the next date of hearing containing the following information:

1. *Number of persons arrayed as accused in FIR,*
2. *Whether any accused is proclaimed offender,*
3. *Whether the compromise is genuine, voluntary and without any coercion or undue influence,*
4. *Whether the accused persons are involved in any other FIR or not.*
5. *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. ”*

3. Pursuant to the aforesaid order, report from JMIC, Amritsar dated 10th of July, 2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- “i) As per the FIR and the statement of the IO, there are five accused persons nominated in the FIR namely Pavijit Singh s/o Ajit Singh, Konark Singh s/o Avtar Singh, Kiranjit Kaur w/o Konark Singh, Darshana Kumari w/o Ram Milap and Ram Milap s/o Mehar Chand.”
- ii) As per the statement of the IO, the accused Pavijit Singh is a proclaimed person in the present case.
- lii) After perusing the statements of the parties, this Court

is satisfied that the compromise is genuine, voluntary and out of free will of the parties.

iv) As per the statement of the IO, the accused Pavijit Singh is involved in FIR No.50/2014 under Sections 420/467/468/471/120-B IPC, P.S. Civil Lines and FIR No. 96/2018 under Section 174-A IPC, P.S. Civil Lines, Amritsar.

v) As per the statement of the IO, the only complainant in the present case is Kanwaldeep Singh, being the partner of the firm namely Marker Overseas.”

4. The aforesaid report reveals that there are five accused persons namely Pavijit Singh, Konark Singh, Kiranjit Kaur, Darshna Kumar and Ram Milap. However, the compromise has only been effected with accused-petitioners Konark Singh and Kiranjit Kaur.

5. 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 present petitioners are quashed.

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

7. I have heard Ld. 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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Pavijit Singh, Darshna Kumar and Ram Milap and it is only Konark Singh and Kiranjit Kaur, who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Konark Singh and Kiranjit Kaur only.

11. The question raised by State counsel as to whether the FIR can

be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.719 dated 11.11.2016, under Section 420 of the Indian Penal Code, 1860, registered at Police Station Civil Lines, Police Commissionerate, District Amritsar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners namely Konark Singh and Kiranjit Kaur.

October 04, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No