

CRM-M-16767-2023 &
CRM-M-17898-2023

1

2023:PHHC:163454

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

285

Date of decision : 07.12.2023

1. CRM-M-16767-2023

Anil Kumar and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

2. CRM-M-17898-2023

Vipan Kumar and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gursimranjit Singh, Advocate
for the petitioners in CRM-M-16767-2023 and
for respondents No. 2 to 4 in CRM-M-17898-2023.

Mr. A.P.S. Sandhu, Advocate
for the petitioners in CRM-M-17898-2023 and
for respondents No.2 to 4 in CRM-M-16767-2023

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. By way of present petitions, the petitioners are seeking quashing of cross case/DD No.40 dated 27.07.2016, registered for the offences punishable under Sections 451, 323, 294 and 34 of IPC at Police Station Sandaur, District Sangrur and FIR No. 48 dated 25.07.2016 for the offences punishable under Sections 323, 294, 506, 120-B and 34 of IPC, at Police Station Sandaur, District Sangrur, on the basis of compromise deed dated 14.03.2023 (Annexure P-3).

2. These are matters arising out of version and cross-version.
3. On 11.09.2023, the following order was passed:-

“CRM-23973-2023 in CRM-M-16767-2023

This is an application for impleadment of Komal Rani and Asha Rani as respondents No.3 and 4 respectively.

Heard.

For the reasons mentioned in the application, the same is allowed.

Amended memo of parties is taken on record.

CRM-23974-2023 in CRM-M-17898-2023

This is an application for impleadment of Raj Kumar and Satya Devi @ Satya Rani as respondents No.3 and 4 respectively.

Heard.

For the reasons mentioned in the application, the same is allowed.

Amended memo of parties is taken on record.

Main case(s)

The present petitions have been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of DDR No.40 dated 20.07.2016, registered for offences punishable under Sections 451, 323, 294 and 34 of IPC, at Police Station Sandaur, District Sangrur and FIR No.48 dated 25.07.2016, registered for offences punishable under Sections 323, 294, 506, 120-B and 34 of IPC at Police Station Sandaur, District Sangrur and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise deed dated 14.03.2023 (Annexure P-4).

Counsels appears on behalf of respondents No.2 to 4 admits the fact of there being compromise between the parties.

It has been submitted that the appeals arising out of the said FIR and cross version are pending for 17.10.2023.

In view of the above, the parties are directed to appear before Appellate Court/learned Illaqa Magistrate/trial Court on **17.10.2023**.

On their doing so, the learned Appellate Court/Illaqa Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the 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 case or not?
5. The Appellate/trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

Adjourned to **07.12.2023**.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Appellate Court/Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date

but not later than a week thereafter.

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

4. Pursuant to the aforesaid order, report dated 19.10.2023 from Additional District & Sessions Judge, Sangrur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

It is submitted that as directed by Hon'ble High Court, on 17.10.2023 statements of parties were recorded namely Komal Rani, Anil Kumar, Raj Kumar, Manisha Rani, Satya Devi, Vipin Kumar, Asha Rani and Manohar Lal who stated that they have compromised the matter and they do not want any action against each other. They further made statement that they are giving this statement on their own, without any pressure. and they are not having any other FIR between them.

As per the directions of Hon'ble High Court, statement of Investigating Officer ASI Harjinder Singh was also recorded who made statement that in case FIR no. 48 dated 25.07.2016 complainant/victims are Vipin Kumar, Komal Rani and Asha Rani and in the cross case complainant/victims are Anil Kumar, Satya Rani, Raj Kumar. He further made statement that there is no accused who is proclaimed offender in the present case. He further made statement that as per record, two FIRs against accused Vipin Kumar under Section 308/34 of IPC and under Section 22 of NDPS Act are registered and against accused Raj Kumar FIR under

Section 323, 324, 458, 506 and 120-B of IPC is registered and against accused Manchar Lal FIR under Section 308/34 of IPC is registered.

From the statements of the parties, it appears that compromise arrived at between the parties is genuine and voluntarily made, without any undue influence and parties made statement regarding compromise, on their own.”

5. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

6. Similarly 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. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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) i.e. heinous offence.*

- (ii) *The offences alleged 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 is reported to have entered into compromise on his own volition.*

10. Consequently, the petitions are allowed. Cross case/DD No.40 dated 27.07.2016, registered for the offences punishable under Sections 451, 323, 294 and 34 of IPC at Police Station Sandaur, District Sangrur and FIR No. 48 dated 25.07.2016 for the offences punishable under Sections 323, 294, 506, 120-B and 34 of IPC, at Police Station Sandaur, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

11. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

07.12.2023

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No