

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

245

CRM-M-18235-2023

Date of decision : 21.07.2023

Baljit Singh Johal**..... Petitioner****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. G.S. Dhillon, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. G.S. Rawat, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of FIR No.246 dated 25.08.2022, registered for offences punishable under Sections 3, 4 and 5 of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 at Police Station Rama Mandi, Police Commissionerate, Jalandhar on the basis of compromise dated 28.03.2023 (Annexure P-2).

2. On 17.04.2023, the following order was passed:-

“The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.246 dated 25.08.2022 registered under Sections 3, 4 and 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Rama Mandi, Police Commissionerate Jalandhar and all consequential proceedings arising therefrom on the

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basis of compromise dated 28.03.2023 arrived between the parties.

Notice of motion.

On the asking of the Court, Mr. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, has accepted notice on behalf of respondent No.1-State.

At this stage, Mr. G.S. Rawat, Advocate has appeared and accepted notice on behalf of respondent No.2 and filed his power of attorney in the Court which is taken on record.

Learned Counsel for respondent No.2 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate within 15 days from today or any other date convenient to the trial Court/Illaq Magistrate for recording their statements with regard to compromise/settlement subject to payment of costs of Rs.15,000/- to be deposited with the District Legal Services Authority, concerned. Trial Court/Illaq Magistrate is directed to submit a report before 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 case or not.
5. Current stage of the case.

List on 21.07.2023.”

3. Pursuant to the aforesaid order, report dated 09.05.2023 from JMIC, Jalandhar has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

On the basis of statements made by the parties before me, the compromise on the face of it appears to be genuine one having been arrived at by the parties with free will without any pressure or coercion. There is nothing on the record to doubt the genuineness of the compromise so arrived at between the parties. Further in view of the statement of investigating officer present FIR was registered against only one accused i.e. Dr. Baljit Singh Johal and no accused has been declared proclaimed offender in this case. Further at this stage accused is not Involved in any other case.”

4. Mr. G.S. Rawat, 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.

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

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

7. 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

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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.

8. As per the facts of the present case, wife of complainant unfortunately died while under the treatment of accused-petitioner. As per compromise due to misunderstanding between the parties, FIR came into being. Now the air has been cleared and both have settled amicably.

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. The parties belong to same city and have decided to bury their hatchet and to live in harmony.

10. Consequently, the petition is allowed. FIR No.246 dated 25.08.2022, registered for offences punishable under Sections 3, 4 and 5 of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 at Police Station Rama Mandi, Police Commissionerate, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

21.07.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No