

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

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**CRM-M No. 17201-2023
Date of decision : 27.07.2023**

Jaswinder Singh and anr.

....Petitioners

Versus

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Lovish Rattan, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ajay S. Dhiman, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No 116 dated 02.07.2019 registered for the offences punishable under Sections 420 and 120-B of the Indian Penal Code at Police Station Division-B, District Amritsar on the basis of compromise dated 20.03.2023 (Annexure P-2).

On 12.04.2022, the following order was passed :

“Prayer in this petition is for quashing of the FIR No.116 dated 02.07.2019, under Section 420, 120-B of the Indian Penal Code, 1860, registered at Police Station Division-B, District Amritsar (Annexure P-1), on the basis of the compromise dated 20.03.2023 (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. Surinder Sharma, Advocate, has put in appearance on behalf of respondent No.2 and filed his Power of Attorney, which is taken on record. He also admits the factum of compromise arrived at between the parties.

List on 27.07.2023.

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.”*

Pursuant to the aforesaid order, report from the Judicial Magistrate 1st Class, Amritsar dated 20.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ The report is as under:-

- i) As per the statement of the IO, there are only two accused persons i.e. the present petitioners.*
- ii) As per the statement of the IO, neither of the accused is a proclaimed offender.*

iii) 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 10, none of the accused persons is involved in any other FIR

v) As per the statement of the 10. there is only one victim/complainant L.e. the respondent Harmeet Singh. Hence, the report is submitted.”

Learned counsel 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 petitioners are quashed.

Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 20.03.2023 (Annexure P-2).

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 116 dated 02.07.2019 registered for the offences punishable under Sections 420 and 120-B of the Indian Penal Code at Police Station Division-B, District Amritsar and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

27.07.2023
Mehak

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No