

292 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18948 of 2023 (O&M)
Date of decision : 11.12.2023

Prem Kumar @ Goldy

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vishal Sauda, Advocate for
Mr. Yashdeep Nain, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Sanjeev Kush, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.297 dated 04.08.2020, registered for offences punishable under Section 24 of Emigration Act & Sections 370/384/406/420/506 IPC and Final report dated 22.10.2020 at Police Station Pundri, District Kaithal, Haryana on the basis of compromise.

2. On 12.07.2023, the following order was passed :

“On 19.04.2023 the following order was passed :-

“Petitioner (Prem Kumar @ Goldy) has filed the present petition under Section 482 of the Code of Criminal Procedure for quashing of FIR No.297 dated 04.08.2020 (Annexure P-1), under Section 24 of the Emigration Act and Sections 370, 384, 406, 420 and 506 of the Indian Penal Code, registered at Police Station Pundri, District Kaithal,

Haryana as well as Final Report dated 22.10.2020 (Annexure P-2) and all the consequential proceedings arising therefrom on the basis of Compromise Deed dated 20.03.2023 (Annexure P-3).

Notice of motion.

At the asking of Court, Mr. Amrik Narwal, DAG, Haryana, who is present in Court, accepts notice on behalf of respondent No.1/State. He prays for an accommodation to seek instructions and assist the Court in this matter.

At this stage, Mr. Sanjeev Kumar, Advocate appears and files Power of Attorney on behalf of Mr. Praveen Kumar, Special Power of Attorney of complainant/respondent No.2 (Ankit), in Court today, which is taken on record, subject to all just exceptions.

List on 04.05.2023.

Learned counsel appearing for the petitioner is directed to supply complete copies of paper book to learned counsel for the respondents during the course of the day.”

The parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 08.08.2023. On their doing so, the learned Duty Magistrate/Illaq 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 trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

Complainant is granted liberty to appear through his attorney.

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 Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 05.10.2023. ”

3. Pursuant to the aforesaid order, report dated 16.08.2023 from Judicial Magistrate 1st Class, Kaithal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“POINT NO.1:

3. Regarding Point No. (1), it is submitted that as per the statement of Investigating Officer, seven persons were arrayed as accused in the FIR. The accused persons named in the FIR are: Prem Kumar @ Goldy, Puran Singh, Raj Kaur, Vinod, Neetu, Rajesh and Rajni. However after investigation, final report against only one accused Prem Kumar @ Goldy has been submitted before the court who is on bail in the present FIR.

POINT NO.2:

4. Regarding Point no. 2, it is submitted that as per report of Investigating Officer ASI Randeep Singh (Annexure-4), no proclamation proceedings against accused are pending in the present case and accused has been declared as proclaimed person. Report of Investigating Officer is Annexure-4.

POINT NO.3:

5. Regarding Point no. 3, it is submitted that complainant and accused persons vide their joint statement have stated that the compromise has been effected between the parties out of their free will and without any coercion or pressure from any corner. Statement of complainant/victim Ankit Kumar through special power of attorney holder Parveen has been recorded. Accused has also stated that compromise is correct and genuine and was effected out of free will of the parties, without any pressure or coercion. Joint statement of accused Prem and Ankit is Annexure-1. Annexure-5 is copy of special power of attorney of complainant. In view of the said statements of the parties, the compromise appears to have been effected voluntarily and out of free will. It is submitted that the compromise effected between the parties is genuine. Copies of identity cards of Parveen and Prem are Annexure-2 & Annexure-3.

POINT NO.4:

6. Regarding Point no. (4), it is submitted that besides the present case, there is no other case pending against the accused.

POINT NO.5:

7. Regarding Point no. (5), it is submitted that one person that is complainant Ankit as complainant in the present case. Complainant/injured named in the present case is: Ankit. Thus, total one complainant/injured/victim is there.”

4. 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 petitioner are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 20.03.2023 (Annexure P-3).

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

7. 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.*

8. 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.*

9. Consequently, the petition is allowed. FIR No.297 dated 04.08.2020, registered for offences punishable under Section 24 of Emigration Act & Sections 370/384/406/420/506 IPC and Final report dated 22.10.2020 at Police Station Pundri, District Kaithal, Haryana and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

11.12.2023

Pooja sharma-I

(PANKAJ JAIN)
JUDGE

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