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

CRM-M-19146-2022

Date of decision: 06.11.2023

Paramjot Kaur and others**..... Petitioners****versus****State of Punjab and another****..... Respondents****CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. A.S. Shergill, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Shubham Tandon, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

Reply to the petition by way of an affidavit of Raminder Singh, PPS, DSP, Circle Khamanon, District Fatehgarh Sahib on behalf of respondent No.1-State has been filed. The same is taken on record. Copy thereof has been supplied to learned counsel for the petitioners.

By way of present petition, the petitioners are seeking quashing of FIR No. 81, dated 20.08.2021 (Annexure P-1) registered for the offences punishable under Sections 406, 420 and 120-B IPC at Police Station P.S. Kheri Nodh Singh, District Fatehgarh Sahib on the basis of compromise dated 18.04.2022 (Annexure P-2).

2. On 20.02.2023, the following order was passed:-

“Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.0081 dated 20.08.2021 registered under Sections 406, 420 and 120-B IPC at Police Station Kheri Nod Singh, District Fatehgarh Sahib on the strength of a written compromise dated 18.04.2022 (Annexure P-2) entered into between the parties.

The petitioners as also respondent No.2 through their counsel

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are directed to appear before the Illaqa Magistrate/Trial Court on 02.03.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the illaqa Magistrate/Trial Court adjourned to 19.07.2023.”

3. Pursuant to the aforesaid order, report dated 11.04.2023 from Judicial Magistrate Ist Class, Khamanon has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1. Whether all the accused are party to the compromise.

In this regard, it is respectfully submitted that as per the statement of Investigating Officer ASI Davinder Singh No.426/FGS, the FIR No.81 dated 20.08.2021, under Sections 420, 406, 120B of IPC PS Kheri Naudh Singh Distt. Fatehgarh Sahib got registered against on the statement of complainant Gurwinder Singh.

Name of affected person

Name of accused

Gurwinder Singh son of Ajinder Singh resident of village Ajner, Tehsil Khamanon, District Fatehgarh Sahib.

1. Paramjot Kaur d/o Gurjit Singh
2. Paramjit Singh son of Gurjit Singh

3. Paramdeep Singh son of Gurjit Singh

4. Balwinder Kaur wife of Gurjit Singh, all resident of village Jandiali, Tehsil Sanewal, District, Ludhiana.

There is no other accused in this case except above named accused and there is no other complainant or affected/aggrieved person other than the persons above named complainant Gurwinder Singh.

2. Whether the parties are involved in any other criminal case.

In this regard, it is respectfully submitted that as per the statement of Investigating Officer ASI Davinder Singh No.426/FGS there is no other criminal case pending against the

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*parties.***3. Whether any accused is proclaimed offender?***In this regard, it is respectfully submitted that per the statement of Investigating Officer ASI Davinder Singh No.426/FGS, there is no proclaimed offender in this case.*

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 petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 18.04.2022 (Annexure P-2).

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*

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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.*

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9. Consequently, the petition is allowed. FIR No.81 dated 20.08.2021, registered for offences punishable under Sections 406, 420 and 120-B IPC at Police Station P.S. Kheri Nodh Singh, District Fatehgarh Sahib and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

06.11.2023
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No