

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

CRM-M No.17805 of 2023 (O&M)

Date of decision : 28.11.2023

Surinderpal Singh

....Petitioner

Versus

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ruby Kaur, Advocate for
Mr. G.S.Chanota, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. H.K.Brinda, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioner is seeking quashing of
FIR No.103, dated 15.11.2022 (Annexure P-1), under Sections 406, 420 of
the IPC, registered at Police Station Garhdiwala, District Hoshiarpur and all
consequent proceedings arising therefrom on the basis of compromise.

2 On 13.04.2023, the following order was passed :

*“ This is a petition under Section 482 Cr.P.C. for quashing of
FIR No.103, dated 15.11.2022 (Annexure P-1), under Sections 406,
420 of the IPC, registered at Police Station Garhdiwala, District
Hoshiarpur, with all subsequent proceedings arising therefrom, on
the basis of compromise dated 26.03.2023 (Annexure P-2).*

Notice of motion.

*On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab
accepts notice on behalf of respondent No.1-State.*

Ms. Monika Jangra, Advocate has put in appearance on behalf of respondent No.2 and has filed Vakalatnama. He admits the factum of compromise entered into between the parties.

List on 31.05.2023.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court within a period of two weeks from today, for recording of their statements with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is declared as proclaimed offender?*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- (iv) Whether the accused persons are involved in any other FIR or not?”*

3 Pursuant to the aforesaid order, report dated 18.09.2023 from Judicial Magistrate 1st Class, Dasuya, District Hoshiarpur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Both the parties in their respective statements have stated that matter has been mutually compromised between the parties and now no grudge or enmity remains between the parties. I have inquired the factum of compromise from the parties present in the Court who endorsed the fact of effecting of compromise between them with their free volition. From the statements of the parties as well as the other circumstance, it seems that the compromise has been effected between the parties with their free consent and without any inducement or threat of any person.

The requisite report along with original statement of parties as desired by Hon'ble Punjab & Haryana High Court is as follows:-

1	<i>Number of persons arrayed accused in the FIR</i>	<i>Surinderpal Singh S/o Hari Ram R/o Village Terkiana, Tehsil Dasuya, District Hoshiarpur.</i>
2	<i>Whether any accused is a proclaimed offender</i>	<i>No</i>

3	Whether the compromise is genuine, voluntary and without any coercion or undue influence	Yes
4	Whether the accused person is involved in any other FIR or not	No

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 (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 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 :-

