

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

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CRM-M-18273-2023

Date of decision : 03.08.2023

Ashok Kumar Madan @ Bittu

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

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

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.53 dated 28.04.2016, registered for offences punishable under Sections 420, 468, 471 of IPC, 1860 and Sections 63, 65 ad 68 of Copyright Act, 1957 at Police Station Division No.4, Jalandhar, on the basis of compromise dated 07.04.2023 (Annexure P-3).

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

“Notice of motion.

Mr. Arun Luthra, DAG, Punjab and Mr. G.S. Rawat, Advocate, accept notice on behalf of respondent No.1 and respondent No.2.

Learned counsel for the petitioner undertakes to supply complete set of the paper book to learned counsel for the respondents during the course of the day.

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Through the present petition filed under Section 482 Cr.P.C the petitioner seeks quashing of FIR No.53 dated 28.04.2016 registered under Sections 420, 468 and 471 IPC and Sections 63, 65 and 68 of Copy Right Act, 1957 at Police Station Division No.4, Jalandhar on the strength of a written compromise dated 07.01.2023 (Annexure P-3) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 27.04.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with 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 03.08.2023.”

3. Pursuant to the aforesaid order, report dated 17.07.2023 from CJM, Jalandhar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

In view of the statements of complainant/respondent No.2 Ajit Kumar and that of accused/petitioner Ashok Kumar Madan alias Bittu,

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the compromise is genuine, voluntary and without any coercion or undue influence.

As per record, there was four accused in this case i.e. Brij Mohan Baluja son of Bansi Lal, Vikas Baluja son of Brij Mohan Baluja, Ashok Kumar Madan @ Bittu and Ashok Kumar Nagpal and the petition before the Hon'ble High Court has only been filed by one accused i.e. Ashok Kumar Madan @ Bittu and remaining accused i.e. Brij Mohan Baluja, Vikas Baluja, Ashok Kumar Nagpal are not party to the compromise.

As per statement of Investigating Officer Inspector Gurpreet Kaur accused Ashok Kumar Madan @ Bittu was not declared as proclaimed offender in this case and there is no other criminal case pending against him.”

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.

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- (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).
- (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.

9. Consequently, the petition is allowed. FIR No.53 dated 28.04.2016, registered for offences punishable under Sections 420, 468, 471 of IPC, 1860 and Sections 63, 65 ad 68 of Copyright Act, 1957 at Police Station Division No.4, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

03.08.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No