

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

274

CRM-M-18635-2023

Date of decision : 03.08.2023

Ram Charan and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ishan Khetarpal, Advocate
for the petitioners.

Mr. Amit Shukla, AAG, Punjab.

Mr. Paras Jhamb, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.125 dated 15.10.2019, registered for offences punishable under Sections 323, 324 and 34 of IPC, 1860 at Police Station Balongi, District SAS Nagar, on the basis of compromise/affidavit dated 27.09.2022 (Annexure P-2).

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

“The prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.125, dated 15.10.2019, under Sections 323, 324, 34 IPC registered at Police Station Balongi, District SAS Nagar alongwith all subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

At the asking of the Court, Ms. Himani Arora, AAG, Punjab appears and accepts notice on behalf of

2023:PHHC:115390

respondent No.1-State. A copy of the paper book be supplied to her during the course of the day.

Mr. K.S.Cheema, Advocate has appeared and filed his Memo of Appearance on behalf of respondent No.2 today in the Court and the same is taken on record. He undertakes to file Vakalatnama in the Registry. He affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 30 days, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether challan is presented in the Court? If so, against how many accused;
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iv) status/stage of the trial/case;
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.

Report be sent through the District & Sessions Judge, before the next date of hearing.

Adjourned to 03.08.2023. .”

3. Pursuant to the aforesaid order, report dated 24.05.2023 from JMIC, Kharar has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

1) As per statement of Investigating Officer, there are four accused in this FIR namely Ram Charan, Mohindro Devi & Meena (Accused Mahindro Devi has already died on 24.08.2021).

(ii) As per statement of Investigating Officer, challan has not been presented in the Court in this FIR.

(iii) As per statement of petitioners as well as Investigating Officer, the accused have never been declared proclaimed offender in this FIR.

(v) As per statement of Investigating Officer, challan is yet to be presented in this FIR.

(v) Statements of parties have been recorded as per which, the compromise effected between them seems to be genuine, voluntary and without any coercion or undue influence.”

4. Mr. Paras Jhamb, 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 petitioners 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.

2023:PHHC:115390

- (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.125 dated 15.10.2019, registered for offences punishable under Sections 323, 324 and 34 of IPC, 1860 at Police Station Balongi, District SAS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

03.08.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No