

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

275

CRM-M-18638-2023

Date of decision : 03.08.2023

Davinder Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Amandeep Chhabra, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

Mr. Japinder Pal Singh Brar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.37 dated 07.03.2018, registered for offences punishable under Sections 457, 380 and 411 of IPC at Police Station Guru Harsahai, District Ferozepur, on the basis of compromise/self declaration executed by respondent No.2 (Annexure P-2).

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

“Prayer in this petition is for quashing of FIR No.37 dated 07.03.2018, registered under Sections 457, 380, 411 IPC at Police Station Guru Harsahai, District Ferozepur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of self declaration executed by respondent No.2 (Annexure P-2).

Notice of motion.

2023:PHHC:115393

Mr. M.S. Nagra, AAG, Punjab accepts notice on behalf of respondent-State. Mr. Lovepreet Singh, Advocate for Mr. Japinder Pal Singh Brar, Advocate has appeared on behalf of respondent No.2 and accepts notice.

List on **03.08.2023**.

In the meantime, the parties are directed to appear before the trial Court/Area Magistrate for recording of their statements with regard to compromise/settlement on 22.05.2023 or any other convenient date to the Court.

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

1. Number of persons arrayed as accused in 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.”

3. Pursuant to the aforesaid order, report dated 12.06.2023 from SDJM, Guruharsahai has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

From the statements as recorded in the present FIR, it is submitted that two persons were arrayed as

2023:PHHC:115393

accused and one accused namely Roor Singh son of Natha Singh has been expired during investigation. Accused Davinder Singh is not proclaimed offender and he is not involved in any other FIR. As per the statement of ASI Tarlok Singh there is only victims/complainant namely Mohan Singh son of Gurdeep Singh resident of village Sharinwala, District Ferozepur, Punjab in the present FIR. From the statements as recorded, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.”

4. Mr. Japinder Pal Singh Brar, 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 :

2023:PHHC:115393

- (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.
- (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.37 dated 07.03.2018, registered for offences punishable under Sections 457, 380 and 411 of IPC at Police Station Guru Harsahai, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

03.08.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No