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

CRM-M-18656-2023
Date of decision : 04.10.2023

BALKAR SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Fateh Singh Dhillon, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. S.S. Sandhu, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.260, dated 28.11.2020 registered for the offences punishable under Sections 295/323/447/427/506/34 of the IPC (offences under Sections 341 and 201 IPC added later on), at Police Station Shri Hargobindpur, District Gurdaspur, (Annexure P-1) on the basis of compromise.

2. Counsel for the petitioner submits that FIR *qua* Harjeet Singh, Manjinder Singh @ Mawinder Singh and Salwinder Singh already stands quashed by this Court vide order dated 23rd of September, 2022 passed in CRM-M-23471 of 2022 (Annexure P-3).

3. On 18th of April, 2023, the matter was referred to the Court below for recording of statements of the parties w.r.t. the compromise effected between them and to report with respect to genuineness of the compromise arrived at between the parties.

4. Pursuant to the aforesaid order, report from JMIC, Batala dated 19.06.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“The Court of undersigned has made the report as desired by your goodself:-

1. As per statement of IO/ASI Sarwan Singh, Pardeep Singh is the complainant/aggrieved person.

2. Statement of complainant/aggrieved Pardeep Singh, was recorded on 09.06.2023.

3. Statement of only petitioner/accused Balkar Singh, was recorded on 09.06.2023.

4. As per statement of IO/ASI Sarwan Singh, this FIR was registered on the statement of complainant Pardeep Singh son of Iqbal Singh, resident of VPO Harchowal, Tehsil Batala, District Gurdaspur, against accused Harjit Singh, Manjinder Singh alias Manwinder Singh, Salwinder Singh and present accused/petitioner Balkar Singh, all residents of Village Harchowal, Tehsil Batala, District Gurdaspur. **Accused Harjit Singh, Manjinder Singh alias Manwinder Singh and Salwinder Singh, have compromised the matter with complainant Pardeep Singh. As per order dated 23.09.2022, passed by the Hon'ble High Court, in CRM-M-23471-2022, proceedings qua accused Harjit Singh, Manjinder Singh alias Mawinder Singh and Salwinder Singh, have already been quashed by the Hon'ble High Court.**

5. As per statement of IO/ASI Sarwan Singh, no accused is declared proclaimed offender in this case.

6. As per statement of IO/ASI Sarwan Singh, challan has already been presented against the accused in Court and now case is fixed for 13.07.2023, for consideration on charge against only accused Balkar Singh.

7. The compromise is genuine, voluntarily and without any coercion or undue influence between the complainant and the accused person”

5. Ld. Counsel appearing 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.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

8. 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.
- (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.

9. 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.

10. Consequently, the petition is allowed. FIR No.260, dated 28.11.2020 registered for the offences punishable under Sections 295/323/447/427/506/34 of the IPC (offences under Sections 341 and 201 IPC added later on), at Police Station Shri Hargobindpur, District Gurdaspur, (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 04, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No