

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

277

CRM-M-18837-2023

Date of decision : 02.08.2023

Dinesh Kumar Dahiya**..... Petitioner****versus****State of Haryana and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Rakesh Kumar Lathpal, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.
For respondent No.1-State.

Mr. Amit Khari, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.304 dated 23.06.2022, registered under Sections 323, 427, 452, 506 of IPC at Police Station Sector-27, Sonapat, District Sonapat (Haryana) (Annexure P-1) on the basis of compromise (Annexure P-2)..

2. On 18.04.2023, the following order was passed:-

“The prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.304, dated 23.06.2022, under Sections 323, 427, 452, 506 of IPC, registered at Police Station Sector-27, Sonipat, District Sonapat (Haryana) (Annexure P-1) along with all consequential proceedings arising therefrom on the basis of compromise (Annexure P-2) arrived at between the parties.

Notice of motion.

At the asking of the Court, Mr. Karan Sharma,

DAG, Haryana, appears and accepts notice on behalf of respondent No.1-State. A copy of the paper book be supplied to him during the course of the day.

Mr. Man Mohit Malik, Advocate has appeared and filed his power of attorney on behalf of respondent No.2 today in the Court and the same is taken on record. 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 02.08.2023”.

3. Pursuant to the aforesaid order, report from JMIC Sonapat through District and Sessions Judge, Sonapat has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

After perusal of the statement of the complainant, accused as well as IO the court is of the considered view that:-

- 1. Only one accused is facing trial.*

2. Challan has been presented in the court against one accused namely Dinesh only.

3. None of the accused is declared as proclaimed offender at any stage of the trial.

4. The stage of the trial is the case is fixed for prosecution evidence.

5. The compromise arrived at between the parties is genuine, voluntarily and out of free will and without any coercion force or undue influence.

4. Mr. Amit Khari, 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.
- (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.304 dated 23.06.2022, registered under Sections 323, 427, 452, 506 of IPC at Police Station Sector-27, Sonapat, District Sonapat (Haryana) (Annexure P-1) on the basis of compromise (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

02.08.2023

JOYTI

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes
No