

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

CRM-M-18818-2023

Date of decision : 01.08.2023

Muktesh Singh

..... Petitioner

versus

State of Harayana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Ms. Kamlesh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.1208 dated 10.11.2016, registered for offence punishable under Section 420 of IPC, at Police Station Karnal City on the basis of compromise deed dated 12.12.2023 (Annexure P-2).

2. On 19.04.2023, the following order was passed:-

“This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.1208 dated 10.11.2016 under Section 420 of IPC, registered at Police Station Karnal City (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise 12.03.2023 (Annexure P-2) arrived at between the parties.

Notice of motion.

Ms. Gaganpreet Kaur, AAG, Haryana puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to file reply, if

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any.

At this stage, Ms. Kamelsh, Advocate puts in appearance on behalf of respondent No.2 and filed power of attorney in the Court today which is taken on record. Copy of the paper book be supplied during the course of the day.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Illaq Magistrate, as the case may be, on 03.05.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

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

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

Adjourned to 01.08.2023.”

3. Pursuant to the aforesaid order, report dated 19.07.2023 from JMIC, Karnal has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

I have the honour to submit that vide order dated 19.04.2023, the Hon'ble High Court had directed the parties to appear before the trial Court/Illaq

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Magistrate, on 03.05.2023 for getting their statements recorded with regard to the compromise. In compliance thereof, complainant namely Surinder Kaur and accused namely Muktesh Singh have appeared before the Court on 03.05.2023 and their statements were recorded, wherein they stated on oath that they had compromised the matter with free will and consent and they have no objection in quashing/cancellation of the FIR.”

4. Counsel for the petitioner in addition submits that initially the dispute was between husband and wife which now stands settled.

5. Ms. Kamlesh, Advocate appears for respondent No.2 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned 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 :

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- (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.1208 dated 10.11.2016, registered for offence punishable under Section 420 of IPC, at Police Station Karnal City and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

01.08.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No