

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

287

CRM-M-19464-2023

Date of decision : 07.12.2023

Sehaj Kalra and another

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Diksha, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Harish Bhatti, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0190 dated 02.03.2022, registered for the offences punishable under Sections 323 and 506 of IPC, 1860 at Police Station Karnal City, District Karnal on the basis of compromise deed dated 04.12.2022 (Annexure P-2).

2. Petitioner No.2 is stated to have unfortunately expired during the pendency of the present petition.

3. On 20.04.2023, the following order was passed:-

“The petitioners have filed the present petition seeking quashing of FIR No.0190 dated 2.3.2022 under Sections 323, 506 I.P.C., registered at Police Station, Karnal City, District Karnal and subsequent proceedings arising therefrom, on the basis of the compromise dated 4.12.2022 (Annexure P-2).

2023:PHHC:159225

Learned counsel for the petitioners submits that parties have amicably settled their dispute and they have arrived at a compromise. Counsel submits that prosecution of the petitioners in the present FIR is nothing but an abuse of the process of law.

Notice of motion.

On the asking of the Court, Mr. B.S. Virk, D.A.G., Haryana accepts notice on behalf of respondent No.1 and Mr. Harish Bhatti, Advocate accepts notice on behalf of respondent no.2.

Learned counsel for respondent no.2 has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties.

Adjourned to 17.8.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 17.5.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

4. Pursuant to the aforesaid order, report dated 05.10.2023 from ACJM, Karnal has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

a) As per statement of IO, besides the accused/petitioner namely Sehaj Kalra and Renu Kalra, there is no other accused in the FIR. Accused/petitioner No.2 Renu Kalra wife of Raj Kumar has expired;

b) As per statement of IO, accused Sehaj Kalra is not involved or declared proclaimed offender in any other criminal case;

c) Undersigned recorded statement of the parties with regard to the compromise and on the basis of statements of the parties and statement of IO, as referred above, undersigned is of the view that the compromise is genuine and correct and same is not result of any fraud or misrepresentation and is result of free will of the parties.”

5. Mr. Harish Bhatti, 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.

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. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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) i.e. heinous offence.*
- (ii) *The offences alleged 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 is reported to have entered into compromise on his own volition.*

10. Consequently, the petition is allowed. FIR No.0190 dated 02.03.2022, registered for the offences punishable under Sections 323 and 506 of IPC at Police Station Karnal City, District Karnal and all proceedings arising therefrom, are, hereby, quashed qua petitioner No.1. Petition qua petitioner No.2 stands abated.

(PANKAJ JAIN)
JUDGE

07.12.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No