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2023:PHHC:140644

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

CRM-M-19116-2023

....Petitioners

...Respondents

....Petitioners

...Respondents

Present : Mr. G.S. Sandhu, Advocate
for the petitioners in CRM-M-19116-2023 and
for respondents No.2 to 5 in CRM-M-19121-2023.

Mr. Dinesh Maurya, Advocate
for the petitioners in CRM-M-19121-2023 and
for respondent No.2 & 3 in CRM-M-19116-2023.

Mr. R.K. Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (ORAL)

These are two petitions filed under Section 482 Cr.P.C. arising out of version and cross-version. The petitioners herein are praying for quashing of cross-case/DDR No.39 dated 28.09.2021, registered under Sections 148, 149, 323, 325 and 379-B of IPC, 1860 and FIR No.371 dated 22.09.2021, registered for offences punishable under Sections 148, 149, 323, 324, 325 and 506 of IPC, 1860 (Section 326 of IPC, 1860 and Sections 27 & 54 of Arms Act, 1959 added lateron) at Police Station Nissing, District Karnal and all subsequent proceedings arising thereto on the basis of

compromise.

2. On 16th of August, 2023, following order was passed :

“The present petitions have been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of cross case/DDR No.39 dated 28.09.2021, registered under Sections 148, 149, 323, 325 and 379-B of IPC, 1860 and FIR No.371 dated 22.09.2021, registered for offences punishable under Sections 148, 149, 323, 325 and 506 of IPC, 1860 (Section 326 of IPC, 1860 and Sections 27 and 54 of Arms Act, 1959 added later on), at Police Station Nissing, District Karnal and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide affidavit/compromise dated 25.11.2021 (Annexure P-2).

Counsel appearing on behalf of respondents No.2 and 3 admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/Duty Magistrate on **21.09.2023**.

On their doing so, the learned Illaqa Magistrate/Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the 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.

Adjourned to **02.11.2023**.

A copy of the report be also sent to the Registrar Judicial of this Court. Needless to say that in case for any reason the

statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

A photocopy of this order be placed on the file of other connected case.

3. Pursuant to the aforesaid order, report from JMIC, Karnal dated 06.10.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows :-

“Accordingly, complainant namely Lakhwinder Singh and injured persons Salider Kumar, Abhishek and Dinesh Kumar and accused persons namely Ravinder Singh and Pankaj appeared before the court and their statements were recorded, wherein the parties stated on oath that they had compromised the matter with each other and they have no objection in quashing of FIR. Investigating Officer, ASI Satish Kumar, stated that there is no criminal case pending against the accused persons and none of the accused is proclaimed offender.

There were three accused persons namely Ravinder Kumar S/o Khushi Ram, Pankaj @ Sethi son of Suresh Kumar, Chirag @ Monu S/o Ravinder Kumar. Chirag @ Monu S/o Ravinder Kumar was declared juvenile and was acquitted by Juvenile Justice Board on 30.04.2022. Neither of accused persons have been declared proclaimed person in the present case and no other case is pending against the accused persons. There are two victim namely Lakhwinder S/o Moman Ram (complainant) and Salinder Kumar S/o Moman Ram. The compromise is genuine, voluntary and out of free will of the parties. The statement of parties and Investigating Officer is enclosed herewith for kind perusal and necessary action.”

4. Since, it is a case of version and cross-version, the counsel who

is representing the petitioners in one case, also represents private respondents in cross-version case. The parties to the dispute are co-villagers who have decided to bury their differences. Both counsels admit the fact of parties having compromised and state that they have no objection in case the FIR as well as DDR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR as well as DDR are quashed based upon the compromise.

6. I have heard Ld. 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 matters do 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 petitions are allowed. DDR No.39 dated 28.09.2021, registered under Sections 148, 149, 323, 325 and 379-B of IPC, 1860 and FIR No.371 dated 22.09.2021, registered for offences punishable under Sections 148, 149, 323, 324, 325 and 506 of IPC, 1860 (Section 326 of IPC, 1860 and Sections 27 & 54 of Arms Act, 1959 added later on), at Police Station Nissing, District Karnal and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

10. A copy of this order be kept on the file of other connected case.

November 02, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No