

CRM-M-34725-2017 &
CRM-M-34731-2017 (O&M)

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2023:PHHC:162926

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

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Date of decision : 24.11.2023

1. CRM-M-34725-2017

Kuldeep Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

2. CRM-M-34731-2017

Rajwinder Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kunal Sarangal, Advocate
for the petitioners in CRM-M-34725-2017 and
for respondents No.2 and 3 in CRM-M-34731-2017.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Sukhveer Kaur, Advocate for
Mr. R.K. Arya, Advocate
for the petitioners in CRM-M-34731-2017 and
for respondent No.2 CRM-M-34725-2017.

PANKAJ JAIN, J. (Oral)

1. By way of present petitions, the petitioners are seeking quashing of cross case registered vide Rapat No.21 dated 19.08.2016, registered for the offences punishable under Sections 323, 325, 148 and 149 of IPC at Police Station Sekhwan, Police District Batala and FIR No. 64 dated 14.08.2016 for the offences punishable under Section 341, 323, 326, 307, 308, 148 and 149 of IPC at Police Station Sekhwan, Police

District Batala on the basis of compromise dated 24.07.2017 (Annexure P-2).

2. These are matters arising out of version and cross-version.
3. Petitioner No.1-Rajwinder Singh in CRM-M-34731-2017, is stated to have died and as per report received by the trial Court, petitioner No.4-Hansa Singh in CRM-M-34725-2017 is also no more.
4. On 12.10.2017, the following order was passed:-

“Service is complete.

Learned counsel for the petitioners as well as learned counsel for respondent No.2 state that compromise has been effected between the parties.

Now the parties are directed to appear before the learned trial Court i.e. where the case is pending on 30.10.2017 and to get recorded their statements regarding compromise and after recording their statements, learned trial Court, is directed to send the report regarding the genuineness of compromise on or before 21.11.2017.

A copy of this order be sent to learned trial Court, through fax, for compliance.”

5. However, vide order dated 25.07.2018 and 06.10.2023, fresh report from the trial Court was called for.
6. Pursuant to the aforesaid order dated 06.10.2023, report from JMIC, Batala dated 04.11.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

It is humbly submitted that petitioners/accused
(1) Kuldeep Singh aged about 35 years S/o Hansa Singh
(2) Preet Kaur aged about 30 years w/o Dalbir Singh
(3) Raj Kaur aged about 28 years W/o Kuldeep Singh
(4) Kashmir Singh aged about 35 years S/o

Hansa Singh (5) Swinder Singh aged about 50 years S/o Rattan Singh all residents of Village Chuhar Chak Colony, Naushera Majha Singh, Tehsil Batala, District Gurdaspur and Harjit Kaur W/o Rajwinder Singh S/o Ajaib Singh, resident of Village Chunar Chak Colony, Nushera Majha Singh, Tehsil Batala, District Gurdaspur has appeared on behalf of respondent/complainant namely Rajwinder Singh (**since deceased**) in the Court on 30.10.2023 and suffered statements that the matter has been compromised between the parties. Said Harjit Kaur has also placed on record copy of her Aadhar Card as Ex. C1 and copy of death certificate of her husband Ex. C2. Statement of I.O/ASI Kulwant Singh No.2289/Btl, PS Sekhwan also got recorded to the effect that present F.I.R was got registered on the statement of the complainant namely Rajwinder Singh (deceased) S/o Ajaib Singh, resident of Village Chuhar Chak Colony, Nushera Majha Singh, Tehsil Batala, District Gurdaspur. Accused persons are not involved in any other FIR. The above stated accused persons are not declared proclaimed offenders in the present case F.I.R. The above stated persons have voluntarily compromised the matter in dispute.

It is pertinent to mention here that there are 6 (six) accused persons arrayed in the present F.I.R namely (1) Kuldeep Singh aged about 35 years S/o Hansa Singh (2) Preet Kaur aged about 30 years W/o Dalbir Singh (3) Raj Kaur aged about 28 years W/o Kuldeep Singh (4) Hansa Singh (**deceased**) aged about 65 years S/o Fauja Singh (5) Kashmir Singh aged about 35 years S/o Hansa Singh (6) Swinder Singh aged about 50 years S/o Rattan Singh all

residents of Village Chuhan Chak Colony, Naushera Majha Singh, Tehsil Batala, District Gurdaspur. Out of above stated accused persons, one person namely Hansa Singh S/o Fauja Singh has expired.

After recording of statements of parties and IO, this Court is of the view that the compromise between the parties in the present case is genuine, voluntary and without any coercion or undue influence.”

7. Similarly, in CRM-M-34731-2017, report dated 09.11.2023 from the trial Court reads as under:-

“xx xx xxx

It is humbly submitted that petitioners/accused (1) Amandeep Kaur aged about 27 years D/o Rajwinder Singh, (2) Harjit Kaur aged about 28 years W/o Rajwinder Singh, (3) Prempreet Singh @ Paramjit Singh aged about 25 years S/o Darshan Singh, (4) Manjit Kaur aged about 70 years W/o Darshan Singh, (5) Darshan Singh aged about 75 years S/o Faqir Singh all residents of Village Chuhan Chak Colony, Nushera Majha Singh, Tehsil Batala, District Gurdaspur and respondent complainant namely Kashmir Singh S/o Hansa Singh resident of Village Chuhan Chak Colony, Nushera Majha Singh, Tehsil Batala, District Gurdaspur appeared in the Court on 30.10.2023 and suffered statements that the matter has been compromised between the parties. Statement of I.O/ASI Kulwant Singh No.2289/Btl, PS Sekhwan also got recorded to the effect that present F.I.R was got registered on the statement of the complainant namely Hansa Singh (since deceased) S/o Fauja Singh resident of Village Chuhan Chak Colony, Nushera Majha Singh, Tehsil Batala, District

Gurdaspur. Accused persons are not involved in any other FIR. The above stated accused persons are not declared proclaimed offenders in the present case/F.I.R. The above stated persons have voluntarily compromised the matter in dispute.

It is pertinent to mention here that there are 7 (seven) accused persons arrayed in the present F.I.R namely (1) Rajwinder Singh (deceased) S/o Ajaib Singh, (2) Bikramjit Singh (deceased) S/o Rajwinder Singh, (3) Amandeep Kaur aged about 27 years D/o Rajwinder Singh, (4) Harjit Kaur aged about 28 years w/o Rajwinder Singh, (5) Prempreet Singh @ Paramjit Singh aged about 25 years So Darshan Singh, (6) Manjit Kaur aged about 70 years W/o Darshan Singh & (7) Darshan Singh aged about 75 years S/o Faqir Singh, all residents of Village Chuhar Chak Colony, Nushera Majha Singh, Tehsil Batala, District Gurdaspur. Out of above stated accused persons, two persons namely Rajwinder Singh and Bikramjit Singh have expired.

After recording of statements of parties and IO, this Court is of the view that the compromise between the parties in the present case is genuine, voluntary and without any coercion or undue influence.”

8. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

9. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

10. I have heard learned counsel for the parties and have

carefully gone through the records of the case.

11. 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.*

12. 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 fall within the exceptions as carved out in **Laxmi Narayan's** case (supra).*

(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.*

(vi) *No firearm has been used.*

(vii) *Injury has not been inflicted on the vital/delicate part of the body.*

(viii) *Investigation stands completed.*

13 Consequently, the petitions are allowed. Cross case/Rapat No.21 dated 19.08.2016, registered for the offences punishable under Sections 323, 325, 148 and 149 of IPC at Police Station Sekhwan, Police District Batala and FIR No. 64 dated 14.08.2016 for the offences punishable under Section 341, 323, 326, 307, 308, 148 and 149 of IPC at

Police Station Sekhwan, Police District Batala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners. However, petition qua Rajwinder Singh in CRM-M-34731-2017 and qua Hansa Singh in CRM-M-34725-2017, stands abated.

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

(PANKAJ JAIN)
JUDGE

24.11.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No