

279

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

**CRM-M-20460-2023
Date of decision : 25.07.2023**

VIPIN @ NITIN @ SACHIN @ GOLI AND OTHERS

....Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Neeraj Saini, Advocate for the petitioners.

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

Mr. S.S. Kanwar, Advocate for respondent No2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0080 dated 31.05.2020 registered for the offences under Sections 323, 341, 506 and 34 IPC at Police Station 37, District Gurugram (Annexure P-1) on the basis of compromise.

2. On 25.04.2023, the following order was passed :-

“The petitioners seeks quashing of FIR No. 80 dated 31.05.2020 registered at Police Station 37, District Gurugram under Sections 323, 341, 506 and 34 IPC on the basis of compromise.

Notice of motion.

Mr. Himmat Singh, DAG, Haryana accepts notice on behalf of respondent No. 1 and waives service.

Mr. Satbir Singh Kanwar Advocate puts in appearance on behalf of respondent No.2 and waives service.

Learned counsel for respondent No.2 admits the factum of compromise.

The parties are directed to appear before the trial Court/ Illaqa Magistrate on 26.05.2023 at 10.00 a.m. and get their statements recorded and thereafter the trial Court shall transmit its report to this Court regarding genuineness of compromise before the next date of hearing i.e. 25.07.2023”

3. Pursuant to the aforesaid order, report from JMIC, Gurugram, dated 26.05.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “3. Today the complainant Sh. Naveen Kumar has appeared before the undersigned and has stated that the matter between the parties has been settled amicably and voluntarily without any force, pressure or any sort of undue influence. No grievance remains against the accused qua the present complaint.
4. Accused Vipin @ Nitin @ Sachin @ Goli, Dinesh @ Bhola @ Neetu, Jeetu @ Jitender @ Chhitranjan Kumar and Narender Kumar have also recorded their statements to the effect that the statement made by the complainant is correct and true and matter has been settled amicably between them. They have further deposed that they have never been declared PO in any case. Their version is verified by the IO. Separate statement of the IO in this regard recorded.
5. I have also inquired from both the parties, especially from complainant Sh. Naveen Kumar who has stated that the compromise has been arrived between them voluntarily and the same is not due to any threat, coercion or undue influence from the accused side and is a volunteer act of the parties.
6. So, in the view of the aforesaid facts and statement of complainant qua compromise, I am of the considered view that the compromise effected between the parties appears to be without any threat or

pressure from either side and is made out of free volition of the parties.”

4. Ld. Counsel appearing for respondent No.2 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.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is 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 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.0080 dated 31.05.2020 registered for the offences under Sections 323, 341, 506 and 34 IPC at Police Station 37, District Gurugram (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

July 25, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No