

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

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CRM-M-20670-2023

Date of decision : 01.08.2023

Satvir and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Gahlwat, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Ms. Amandeep Kaur, Advocate
for respondents No.2 to 5.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.93 dated 16.03.2023, registered for offences punishable under Sections 323, 325, 34 and 506 of IPC at Police Station Chand Hut, District Palawal, on the basis of compromise deed dated 20.04.2013 (Annexure P-3).

2. On 26.04.2023, the following order was passed:-

“The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.93 dated 16.03.2023 registered under Sections 323, 325, 34 and 506 of the Indian Penal Code, 1860 at Police Station Hut, District Palwal and all consequential proceedings arising therefrom on the basis of compromise arrived between the parties.

Notice of motion.

2023:PHHC:115350

On the asking of the Court, Mr. Munish Sharma, Asstt. A.G., Haryana, who is present in the Court, has accepted notice on behalf of respondent No.1-State.

At this stage, Ms. Amandeep Kaur, Advocate has appeared and accepted notice on behalf of respondents No.2 to 5 and filed her power of attorney in the Court which is taken on record.

Learned Counsel for respondents No.2 to 5 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate within 15 days from today or any other date convenient to the trial Court/Illaqa Magistrate for recording their statements with regard to compromise/settlement subject to payment of costs of Rs.10,000/- to be deposited with the District Legal Services Authority, concerned. Trial Court/Illaqa Magistrate is directed to submit a report before next date of hearing containing the following information:-

1. Number of persons arrayed as accused in 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. Current stage of the case. List on 01.08.2023.

List on 01.08.2023.”

3. Pursuant to the aforesaid order, report dated 05.06.2023 from JMIC, Palwal has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

In my opinion, in view of the statements of the complainant/respondents and the accused persons/petitioners the matter has been compromised between them voluntarily i.e. without any threat, coercion, pressure or undue influence, inducement. The compromise appears to be genuine. The compromise has been effected to maintain, promote brother-hood and peace amongst them.

As per the statement/report of HC Vinod Kumar (Investigating Officer) there are three accused persons in the present FIR. None of the accused persons has been declared proclaimed offender in this case/FIR. Cross Case/FIR no. 81 dated 09.03.2023 under Sections 149, 323, 354-A and 506 of IPC has been registered by accused. No arrest has been made so far in this case yet.”

4. Ms. Amandeep Kaur, Advocate appears for respondents No.2 to 5 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.

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

6. I have heard learned 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.93 dated 16.03.2023, registered for offences punishable under Sections 323, 325, 34 and 506 of IPC at Police Station Chand Hut, District Palawal 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