

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

224

CRM-M-21343-2023

Date of decision : 24.11.2023

Sandeep Mattu @ Happy and others**..... Petitioners****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ritesh Pandey, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.172 dated 11.10.2018, registered for the offences punishable under Sections 326, 323 and 34 of IPC at Police Station Dina Nagar, District Gurdaspur on the basis of compromise dated 12.09.2022 (Annexure P-2).

2. On 22.05.2023, the following order was passed:-

“CRM-22327-2023

This is an application under Section 482 of Cr.P.C. for relegating the parties for recording of their statements before the trial Court with regard to the compromise.

Mr. A.K. Ranolia, Advocate has appeared and filed memorandum of appearance on behalf of respondent No.2 today in the Court and the same is taken on record. He undertakes to file vakalatnama in the Registry. He affirmed the factum of compromise

2023:PHHC:162740

between the parties.

In view of the averments made in the application, the same is allowed and the parties are directed to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 2 months, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether challan is presented in the Court?
If so, against how many accused;
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iv) status/stage of the trial/case
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.

Report be sent through the District & Sessions Judge, before the next date of hearing.”

3. Pursuant to the aforesaid order, report dated 11.07.2023 from JMIC, Gurdaspur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

- i. As per report of Investigating Officer there are 4 accused in this FIR.

2023:PHHC:162740

ii. Challan in this FIR has been presented against Petitioners no. 2,3,4 namely Emanuel Bhatti, Rajesh Masih and Balkar Masih.

iii. Petitioner no. 1 Sandeep Mattu @ Happy was declared as Proclaimed Offender on 12.03.2020.

iv. During trial Petitioners no. 2,3,4 namely Emanuel Bhatti, Rajesh Masih and Balkar Masih were acquitted vide order dated 02.05.2023 passed by the undersigned.

v. As per statement of parties court is satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. **(Petitioners no. 2,3,4 namely Emanuel Bhatti, Rajesh Masih and Balkar Masih have not come present to record their statements)**

vi. Statement of Investigating Officer has been recorded as per points no. (I), (ii), (iii) and (iv)."

4. Apart from the fact that statements have been recorded, the State counsel has produced order dated 02.02.2023 passed by JMIC, Gurdaspur, whereby three of the petitioners namely Balkar Mashi, Rajesh Masih @ Sabi and Emanuel @ Sonu stand acquitted.

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. 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***

2023:PHHC:162740

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.*

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) 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.*

9. Consequently, the petition is allowed. FIR No.172 dated 11.10.2018, registered for the offences punishable under Sections 326, 323 and 34 of IPC at Police Station Dina Nagar, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

24.11.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No