

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

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CRM-M-40257-2017

Date of decision : 17.11.2023

Gurmeet Singh and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vishva Bahl, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Govind Rana, Advocate for
Mr. Saurav Arora, Advocate
for respondents No.2 to 11.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.62 dated 27.04.2016, registered for the offences punishable under Sections 420, 465, 468, 471 and 120-B of IPC, 1860 and Sections 3, 4, 7, 13(1) of Punjab Prevention of Human Smuggling Act, 2012 at Police Station B-Division, Amritsar on the basis of compromise deed dated 23.08.2017 (Annexure P-2).

2. On 24.01.2018, the following order was passed:-

“Service is complete.

The parties are directed to appear before the Area/Illaq Magistrate on 05.02.2018 for getting their statements recorded. After recording the statements of the parties, the Area/Illaq Magistrate shall send a report to this Court before the next date of hearing.

Adjourned to 04.04.2018.”

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3. Pursuant to the aforesaid order, report dated 05.03.2018 from JMIC, Amritsar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

On appearance, statement of complainant Sonu Shah and Santosh Shah, Rakesh Kumar, Manoj Kumar, Shiv Kumar, Vikash Kumar, Tej Parkash, Tarkeshwar Shash, Nitesh Kumar and Sandeep Kumar on identification of their Counsel was recorded on 15.02.2018 and of accused Gurmeet Singh and Davinder Singh on identification of their counsel were recorded on 15.02.2018. Complainant stated that they have compromised with the accused without any pressure, threat or undue influence and also the accused Sonu Shah and Santosh Shah, Rakesh Kumar, Manoj Kumar, Shiv Kumar, Vikash Kumar, Tej Parkash, Tarkeshwar Shash, Nitesh Kumar and Sandeep Kumar stated that they have compromised with the complainant without any pressure, threat, duress, or influence.

As per the report of Ahlmad, no accused is proclaimed offender in the present case and no other proceedings in this case are pending in this Court.

From the statement, it appears that complainant and accused have compromised the matter without any pressure, duress, inducement and threat of any kind from any corner voluntarily with their free will.”

4. Mr. Govind Rana, Advocate for Mr. Saurav Arora, Advocate appears for respondents No.2 to 11 and 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. 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 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.62 dated 27.04.2016, registered for the offences punishable under Sections 420, 465, 468, 471 and 120-B of IPC, 1860 and Sections 3, 4, 7, 13(1) of Punjab Prevention of Human Smuggling Act, 2012 at Police Station B-Division, Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

17.11.2023

Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No