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

CRM-M-23365-2022
Date of decision : 04.10.2023

CHARANJIT SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.S. Bhatia, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Arun Sharma, Advocate for
Mr. Harish Mehla, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.94, dated 24th of August, 2008 registered for the offences punishable under Section 323, 324, 148, 149 of the IPC (Section 326 IPC added later on), at Police Station Balachaur, District SBS Nagar (Annexure P-1) on the basis of compromise.

2. On 20th of September, 2023, the following order was passed :-

“Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.94 dated 24.08.2008 registered under Sections 323, 324, 326, 148 and 149 IPC at Police Station Balachaur, District SBS Nagar on the strength of a written compromise dated 05.03.2021 (Annexure P-2) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 11.04.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaga Magistrate/Trial Court adjourned to 13.07.2023.”

3. Pursuant to the aforesaid order, report from SDJM, Balachaur dated 9th of June, 2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “1. As per the statement of IO/ASI Balvir Singh, FIR was registered against the accused namely Charanjit Singh, Balihar Singh and Sodhi Singh but only Charanjit Singh is the party to the compromise with the complainant.
2. As per the statement of IO/ASI Balvir Singh, accused Balihar Singh has already been declared as Proclaimed Offender and except the present one no other case is pending against the accused.”

4. The aforesaid report reveals that there are three accused persons namely Charanjit Singh, Balihar Singh and Sodhi Singh. However,

the compromise has only been effected with accused-petitioner Charanjit Singh.

5. 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 petitioner-Charanjit Singh are quashed.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. 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.

10. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Balihar Singh and Sodhi Singh and it is only Charanjit Singh who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Charanjit Singh only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is

made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.94, dated 24th of August, 2008 registered for the offences punishable under Section 323, 324, 148, 149 of the IPC (Section 326 IPC added later on), at Police Station Balachaur, District SBS Nagar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 04, 2023
Dpr

(Pankaj Jain)
Judge

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