

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

279

**CRM-M-22043-2023
Date of decision : 17.08.2023**

Ankit**..... Petitioner**

versus

State of Haryana and another**..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Nikhil Mittal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Kuljit Singh, Advocate for
Ms. Veena Hooda, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.10 dated 13.01.2023, registered for the offences punishable under Sections 34, 341 and 379-A of IPC, 1860 (Sections 201 and 379-B of IPC, 1860 added later on) at Police Station Chhapar, District Yamuna Nagar on the basis of compromise/settlement dated 11.04.2023 and affidavit of complainant (Annexures P-2 and P-3)

2. On 02.05.2023, the following order was passed:-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.10 dated 13.01.2023 under Sections 34, 341, 379-A IPC (Sections 201, 379-B IPC added later on), registered at Police Station Chhapar, and all subsequent proceedings arising therefrom, on the basis of compromise and affidavit of the complainant (Annexures P-2 and P-3) arrived at

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between the parties.

Notice of motion.

Ms. Gaganpreet Kaur, DAG, Haryana, puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

At this stage, Ms. Veena Hooda, Advocate puts in appearance on behalf of respondent No.2 and filed power of attorney in the Court today which is taken on record. Copy of the paper book be supplied during the course of the day.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 18.05.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

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

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

Adjourned to 17.08.2023.”

3. Pursuant to the aforesaid order, report from JMIC, Yamuna Nagar dated 16.06.2023 has been received, which is taken on record. As

per the report, the trial Court has recorded as follows:-

“xx xx xx

1. As per the statement of SI Mohan Lal No.434, CIA-2 Yamuna Nagar, there are three accused persons namely Ankit, Mewa Ram and Manpreet @ Mannu, who are facing the trial in the present case FIR.
2. As per the statement of SI Mohan Lal No.434, CIA-2 Yamuna Nagar, none of the accused persons involved in the present FIR have been absconding or declared proclaimed person/offender in this case.
3. As per the statement of SI Mohan Lal No.434, CIA-2 Yamuna Nagar, challan in the present case FIR has been submitted in the Court on dated 06.04.2023 and one accused namely Manpreet @ Mannu is in custody in the present case FIR and accused namely Ankit and Mewa Ram are on bail in this case but accused Mewa Ram got absent and now warrant of arrest has been issued against him. Now, case is at the stage of presence of accused before the Court namely Manpreet @ Mannu through V.C and presence of accused Mewa Ram.
4. The compromise is genuine, voluntary and out of free will of the parties without any coercion or undue influence.”
4. The aforesaid report reveals that there are three accused persons namely Ankit, Mewa Ram and Manpreet @ Mannu. However, the compromise has only been effected with accused-petitioner Ankit.
5. Mr. Kuljit Singh, Advocate for Ms. Veena Hooda, Advocate appears for respondent No.2 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 petitioner are quashed.

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

7. I have heard learned 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

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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,

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namely, Mewa Ram and Manpreet @ Mannu and it is only Ankit who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Ankit 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.10 dated 13.01.2023, registered for the offences punishable under Sections 34, 341 and 379-A of IPC, 1860 (Sections 201 and 379-B of IPC, 1860 added later on) at Police Station Chhapar, District Yamuna Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

17.08.2023
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes
No