

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

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**CRM-M No. 22481-2023
Date of decision : 27.07.2023**

Jaswinder Singh @ Jassa Singh @ Jasdeep Singh and others

....Petitioners

Versus

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G. S. Sidhu, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Mohit Kumar, Advocate
for respondent No.2.**PANKAJ JAIN, J. (ORAL)**

1. By way of present petition, the petitioners are seeking quashing of FIR No 0075 dated 05.04.2018 registered for the offences punishable under Sections 447 and 427 of the Indian Penal Code at Police Station Sadar Raikot, District Ludhiana on the basis of compromise dated 20.03.2023 (Annexure P-2).

2. On 05.05.2023, the following order was passed :

“Prayer in this petition under Section 482 Cr.P.C., is for quashing of FIR No.0075 dated 05.04.2018 under Sections 447, 427 IPC, registered at Police Station Sadar Raikot District Ludhiana (Annexure P-1), along with all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Notice of motion.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State, whereas Mr. Mohit Kumar, Advocate, accepts

notice on behalf of respondent No.2 and filed power of attorney. The same is taken on record.

Adjourned to 27.07.2023.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court on 25.05.2023 or any other date convenient to the Court, which, shall record their statements and send a report to this Court as to whether the compromise is genuine, without any pressure or undue influence and also whether any accused was declared as proclaimed offender, by the next date of hearing.”

3. Pursuant to the aforesaid order, report from the Judicial Magistrate 1st Class, Jagraon dated 06.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Pursuant to the order dated 05.05.2023 passed by Hon'ble Punjab & Haryana High Court in CRM-M-22481-2023 titled as Jaswinder Singh @ Jassa Singh alias Jasdeep Singh and others Vs. State of Punjab and another, report is hereby submitted to the effect that the statement of respondent no.2/complainant namely Balwinder Kaur W/o Late Harpal Singh, R/o Dadahur, PS Sadar Raikot, Distt. Ludhiana and petitioners no.1 to 5/accused namely Jaswinder Singh @ Jassa Singh @ Jasdeep Singh S/o Sadhu Singh, R/o Village Dadahur, Tehsil Raikot, Distt. Ludhiana, Pargat Singh @ Roda S/o Gurmail Singh, R/o Village Dadahur, Tehsil Raikot, Distt. Ludhiana, Fagha Singh @ Bara Singh S/o Kartar Singh, R/o Village Dadahur, Tehsil Raikot, Distt. Ludhiana, Puran Singh S/o Kartar Singh, R/o Village Dadahur, Tehsil Raikot, Distt. Ludhiana, Jagpal Singh S/o Gurnam Singh, R/o Village Maur Nabha, Distt. Barnala respectively, recorded on 29.05.2023. This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any fear, pressure, threat or coercion and out of their free will.

It is further submitted that statement of SI Harpreet Singh No. 600/LDH(R), now posted as Incharge PP Jalaldiwal, PS Sadar Raikot recorded to the effect that in the present there is one complainant namely Balwinder Kaur and five accused persons namely Jaswinder Singh @ Jassa Singh @Jasdeep Singh, Pargat Singh @ Roda, Fagha

Singh @ Bara Singh, Puran Singh and Jagpal Singh arrayed in the present FIR. He further stated that as per record, no accused has been declared as Proclaimed Offender.”

4. Learned counsel 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 the petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 20.03.2023 (Annexure P-2).

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 0075 dated 05.04.2018 registered for the offences punishable under Sections 447 and 427 of the Indian Penal Code at Police Station Sadar Raikot, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

27.07.2023
Mehak

(PANKAJ JAIN)
JUDGE

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