

273 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.26933 of 2021
Date of decision : 07.12.2023

Arun Uppal .

...Petitioner

Versus

State of Punjab & anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arif Qureshi, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Anubhav Bansal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.61 dated 04.05.2019, registered for offences punishable under Sections 406, 420 and 427 of IPC at Police Station Phase-11, SAS Nagar, Mohali on the basis of compromise.

2. On 15.02.2023, the following order was passed :-

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.61 dated 04.05.2019 under Sections 406/420/427 IPC registered at Police Station Phase 11, SAS Nagar Mohasli along with all subsequent proceedings arising therefrom on the basis of compromise agreement dated 01.07.2021 (Annexure P2).

None has put in appearance on behalf of the parties.

In the interest of justice, adjourned to 02.05.2023.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court, for recording of their statements within 2 weeks with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is declared as proclaimed offender;*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- (iv) Whether the accused persons are involved in any other FIR or not.*

Registry is directed to communicate this order to counsel for the petitioner as well as counsel for respondent No.2 for compliance.

3. Pursuant to the aforesaid order, report dated 31.10.2023 from Judicial Magistrate 1st Class, SAS Nagar Mohali has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

Complainants/respondent no.2 Sachin Passi son of Krishal Lal Passi has come present in court and recorded his statement that the present FIR No. 61 dated 04.05.2019 U/s 406, 420, 427 IPC was registered at Police Station Phase-11, District SAS Nagar, Mohali against accused person namely Arun Uppal son of Rattan Lal Uppal, resident of H.3199 Pink Enclave Sector 49-D Chandigarh on the basis of his complaint/statement. Now, he had entered into a compromise with regard to the said FIR in the present case with the accused person namely Arun Uppal son of Rattan Lal Uppal in the present FIR, while denying the allegations contained in Para No.3 of the present quashing petition filed by the accused before the Hon'ble High Court. The compromise is genuine. The compromise has been effected between him and accused person namely Arun Uppal son of Rattan Lal Uppal voluntarily, out of his free will, without any kind of pressure, coercion or undue influence etc. Copy of compromise is Mark CX on the judicial file. The said compromise is genuine. He further stated that he has no objection, if the aforesaid FIR is quashed against the above said accused person namely Arun Uppal son of Rattan Lal Uppal on the basis of above-stated compromise. He is the only complainant/victim/aggrieved person in the present case. He had placed on record photocopy of his Aadhar card for his identification.

Accused/petitioner Arun Uppal Son of Rattan Lal Uppal came present in court and recorded his statement in which he stated that he effected compromise with the complainant namely complainant Sachin Passi son of Krishan Lal Passi, in FIR No. 61 dated 04.05.2019 U/s 406, 420, 427 IPC registered at Police Station Phase-11, District SAS Nagar, Mohali. He has compromised the present FIR

matter with the complainant Sachin Passi son of Krishan Lal Passi voluntarily and without any kind of pressure, coercion or undue influence. Copy of compromise is Mark CX on the judicial file. The said compromise is genuine. He shall be bound by all the conditions laid down in the above-said compromise. As such, he prayed that present FIR against him may be quashed. He has not been declared proclaimed offender by any court of law in any criminal case. He had also placed on record photocopy of his Aadhar Card for his identification.

It is pertinent to mention here that the above said accused and complainant were identified by their respective counsels.

Investigating officer ASI Jaspal Singh Belt No.1365/SAS Nagar, presently posted at PS Phase-11 Mohali, appeared in court and suffered his statement in writing that he is the investigating officer of the present case bearing FIR No.61 dated 04.05.2019, U/s 406, 420, 427 of IPC, was registered at Police Station Phase-11. District SAS Nagar, Mohali on the statement of the complainant Sachin Passi son of Krishan Lal Passi against accused Arun Kumar Uppal son of Late Sh. Rattan Lal Uppal. There is only one complainant in the present case namely Sh. Sachin Passi son of Krishan Lal.

He further gave the answer of the following questions i.e.

Q1. Number of persons arrayed as accused in the FIR?

Ans. The accused namely Arun Kumar Uppal son of Late Rattan Lal Uppal is the only accused in the present FIR. No other person has been arrayed as an accused in the present case.

Q. Whether any accused is proclaimed offender?

Ans. No, the above mentioned accused in the present case is not declared proclaimed offender by any Court of Law, in any case.

Q. Whether the accused persons are involved in any other case or not? Ans. As per record, no other FIR has been lodged against the accused person of the present case.

In view of the statements of the parties, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or

undue influence in the present FIR case. Hence, the report is submitted accordingly with original statements of the parties.

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 01.07.2021 (Annexure P-2).

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.61 dated 04.05.2019, registered for offences punishable under Sections 406, 420 and 427 of IPC at Police Station Phase-11, SAS Nagar, Mohali and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

07.12.2023

raman

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No