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

CRM-M-24279-2023
Date of decision : 21.08.2023

DEVINDER SINGH @ GAGGI @ GAGGI

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Nargis, Advocate for
Mr. G.S. Nahel, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Amit Rana, Advocate for
Ms. Manpreet Kaur, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.9, dated 25.01.2021 registered for the offences punishable under Sections 457, 380, 465, 467, 468, 471 IPC and Sections 411, 381 IPC added lateron, at Police Station Amargarh, District Sangrur (Annexure P-1) on the basis of compromise.

2. On 12.05.2023, the following order was passed :-

“Notice of motion.

Mr. Arun Luthra, DAG, Punjab and Ms.Manpreet Kaur, Advocate accept notice on behalf of respondent No.1 and respondent No.2, respectively.

Learned counsel for the petitioner undertakes to supply a complete set of the paper book to learned counsel for the

respondents during the course of the day. Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.9 dated 25.01.2021 registered under Sections 457, 380, 465, 467, 468, 471 (Sections 411 and 381 IPC added later on) at Police Station Amargarh, District Sangrur, on the strength of a written compromise (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 25.05.2023 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 Illaqa Magistrate/trial court adjourned to 21.08.2023. ”

3. Pursuant to the aforesaid order, report from JMIC, Malerkotla dated 13.06.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(1) It is respectfully submitted that court of undersigned has taken the copy of Aadhar Cards and photographs of complainant Amandeep Singh as well as accused Devinder Singh @ Gaggi for the purpose of identification and they were identified by ld. counsels.

(2) It is respectfully submitted that in view of statements given by the parties this Court is of the considered opinion that the compromised effected between the parties (between complainant Amandeep Singh as well as accused Devinder

Singh) is genuine and it is effected voluntarily without any coercion and undue influence from any quarter.

(3) It is respectfully submitted that as per the statement of Investigating Officer ASI Sukhchain Singh, he stated that there is only one accused namely Devinder Singh @ Gaggi in the present FIR and he is party to the compromise. He was never declared as proclaimed offender and no other criminal case is pending against him.”

4. 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 the petitioner are quashed.

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

6. I have heard Ld. 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.9, dated 25.01.2021 registered for the offences punishable under Sections 457, 380, 465, 467, 468, 471 IPC and Sections 411, 381 IPC added lateron, at Police Station Amargarh, District Sangrur (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

August 21, 2023
Dpr

(Pankaj Jain)
Judge

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