

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

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CRM-M-24020-2023

Date of decision : 12.09.2023

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

Present: Mr. Rajat Mor, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Anil, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.149 dated 21.03.2023, registered for offences punishable under Sections 323, 385 and 506 of IPC and Section 25 of Arms Act, 1959 at Police Station City Bahadurgarh, District Jhajjar on the basis of compromise/affidavit dated 05.04.2023 (Annexure P-2).

2. On 11.05.2023, the following order was passed:-

“This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.149 dated 21.03.2023 under Sections 323/385/506 of IPC and Section 25 of the Arms Act, 1959 registered at Police Station City Bahadurgarh, District Jhajjar (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise dated 05.04.2023 (Annexure P-2) arrived at between the parties.

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Notice of motion.

Mr. Zorawar Singh Chauhan, DAG, Haryana puts in appearance and accepts notice on behalf of respondent-State and seeks time to file reply, if any.

At this stage, Mr. Amarjit Beniwal, 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/Illaq Magistrate, as the case may be, on 29.05.2023 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 12.09.2023.”

3. Pursuant to the aforesaid order, report dated 08.09.2023 from SDJM, Bahadurgarh has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

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“xx xx xx

6. In view of above mentioned statements, point wise information is furnished as under:-

(i) **How many total accused are facing the trial:-**

There is only one accused namely Sumit and no other person is facing trial in the present case.

(ii) **Whether any accused is/are proclaimed offender/s or proclaimed person/s?**

As per the statement of Investigating officer ASI Sat Naryana, no accused in this case has been declared proclaimed offender.

(iii) **status stage of the trial case;**

As per the statement of investigating officer, the present case is under investigation.

(iv) **To record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;**

As per the respective statements, parties have compromised the matter out of their sweet will and the compromise arrived at seems to be genuine and valid.

(v) **To record the statement of investigating officer with regard to points No. (i), (ii) and (iii) as above.**

As per the orders of Hon'ble Punjab and Haryana High Court, the statement of investigating officer was recorded as per the points No. 1 to 3 mentioned in the order dated 11.05.2023 and the I.O. had also identified the statement of both the parties.”

4. Mr. Anil, 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.

5. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

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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.

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.149 dated 21.03.2023, registered for offences punishable under Sections 323, 385

and 506 of IPC and Section 25 of Arms Act, 1959 at Police Station City Bahadurgarh, District Jhajjar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

12.09.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No