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

**CRM-M-28875-2022
Date of decision : 03.11.2023**

JAGDEEP AND ORS.

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jitender K. Sehrawat, Advocate for the petitioners.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Sukhpreet S. Kang, Advocate for respondents No.2 to 6.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.413 dated 12.10.2013, registered for offences punishable under Sections 147, 148, 149, 323, 325, 406, 427 of the Indian Penal Code, 1860 at Police Station Hansi Sadar, District Hisar (Annexure P-1) on the basis of compromise.

2. On 23.08.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.413 dated 12.10.2013, registered for offences punishable under Sections 147, 148, 149, 323, 325, 406, 427 of the Indian Penal Code, 1860 at Police Station Hansi Sadar, District Hisar and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Mr. Zorawar Chauhan, Advocate appears and accepts notice on behalf of respondents No.2 to 6 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 14.09.2023. On their doing so, the learned Trial Court/Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The Trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

For awaiting report, list on 03.11.2023.”

3. Pursuant to the aforesaid order, report from ASJ, Hisar dated 14.09.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ As per the directions, the parawise requisite information is as under :

1. Five persons namely Jagdeep. Pardeep, Hardeep, Mohan

alias Jagmohan and Sandeep have been arrayed as accused in the present FIR.

2. As per the statement of Investigating Officer, none of the accused namely Jagdeep, Pardeep, Hardeep, Mohan alias Jagmohan and Sandeep has been declared as proclaimed offender in this case.

3. Statements of both the parties have been recorded. From the statements and upon questioning the parties, the compromise appears to be genuine and voluntarily. Their statements do not suggest any pressure or coercion in any manner.

4. As per the statement of I.O., none of the accused is involved in any other criminal case till date.

5. As per the statement of I.O., there is one complainant namely Satyawar and four injured/victims namely Sanjay, Ramesh, Sharmila and Santosh in the FIR.

6. It is worthwhile to mention here that following two private complaints are also pending between the parties with regard to the same occurrence:

(i) Complaint bearing case No.25-SC of 16.10.2018/3.3.2020 bearing CIS NO.SC/446/2018 titled as Jagdeep v. Parshant filed by complainant Jagdeep against accused Parshant, Naveen, Manoj, Sanjay, Mullra Ram, Suresh, Bhim, Ramesh, Satyawar, Santosh, Satywan, Sajjan, Monu, Vikram, Jogender, Manjeet, Sanjay, Rajat, Sharmila and all the accused were summoned under Sections 323,452,506,120-B of IPC vide order dated 9.7.2015 passed by Mr. Mukesh Kumar, the then learned JMJC, Hansi and after committal, pending before this Court.

(ii) Complaint bearing case No.24-SC of 16.10.2018/3.3.2020 bearing CIS NO. SC/445/2018 titled as Satyawar v. Pardeep filed by complainant Satyawar against accused Jagdeep, Pardeep, Hardeep, Ram Kishan, Mohan, Aman, Raman, Kapil, Naresh, Sandeep, Naveen Sunder, Surajmal, Manjeet, Dharambir,

Mintu, ASI Amrit Lal and 3-4 unknown persons and accused namely Aman was summoned under Sections 307,452,506 of IPC and accused Hardeep. Sandeep, Manjeet, Kapil and Pardeep were summoned under Sections 323, 325, 452,506 of IPC vide order dated 31.3.2017 passed by Mr. Anil Kumar Yadav, the then learned JMIC, Hansi and after committal, the same is pending before this Court.”

4. Ld. Counsel appearing for respondents No.2 to 6 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 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.413 dated 12.10.2013, registered for offences punishable under Sections 147, 148, 149, 323, 325, 406, 427 of the Indian Penal Code, 1860 at Police Station Hansi Sadar, District Hisar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

November 03, 2023

Dpr

(Pankaj Jain)

Judge

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