

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

CRM-M-25176-2023 (O&M)

Date of decision : 06.09.2023

NIRMAL SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Meenu, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Ritu Pathak, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.05 dated 23.02.2019, registered for the offences punishable under Sections 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station NRI District Moga (Annexure P-1) on the basis of compromise.

2. On 18.05.2023, the following order was passed :-

“Prayer in this petition is for quashing of the FIR No.05 dated 23.02.2019, under Sections 420 and 120-B of the Indian Penal Code, 1860 (for short ‘the IPC’), registered at Police Station NRI District Moga (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of the compromise dated 02.05.2023 (Annexure P-2) entered into between the parties.

Notice of motion.

On the asking of the Court, Mr. Dhruv Dayal, Additional A.G., Punjab, accepts notice on behalf of the respondent-State.

Ms. Ritu Pathak, Advocate, has put in appearance on behalf of respondent No.2 and has filed her Power of Attorney, which is taken on record.

She also admits the factum of compromise arrived at between the parties.

List on 06.09.2023.

Meanwhile, the parties are directed to appear before the learned trial Court/Area Magistrate on 31.05.2023 or any other convenient date to the Court and to get their statements recorded regarding the compromise.

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

1. *Number of persons arrayed as accused,*
2. *Whether any accused is/are proclaimed offender/s or proclaimed person/s.*
3. *Whether the compromise is genuine, voluntary and without any coercion or undue influence,*
4. *Whether the accused persons are involved in any other FIR/criminal case.*
5. *The trial Court is also directed to record the statement of the Investigating Officer with regard to the number of victims/ complainants and the accused in the present case.”*

3. Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Moga dated 03.06.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“It is further submitted as under:-

- I.** As per the statement of above said Investigating Officer, there are total three accused namely Nirmal Singh, Chanan Singh and Gurmeet Singh in the FIR no.05 dated 23.02.2019 registered under Sections 420 and 120-B of IPC at P.S NRI, Moga.
- II.** As per statement of above said Investigating Officer, no accused is proclaimed offender in the above said FIR.
- III.** As per statements of parties, compromise effected between them is genuine, voluntarily and without any coercion

or undue influence.

IV. As per statement of above said Investigating Officer, accused Nirmal Singh and Gurmeet Singh are not involved in any other FIR/criminal case. Further, accused Chanan Singh is also involved in FIR no.83 dated 14.08.2017 registered under Sections 420, 406, 341, 506, 120-B of IPC at P.S Ajitwal, Moga.

V. As per statement of above said Investigating Officer as well as Kulwinder Kaur power of attorney holder of complainant Daljit Singh, there is only one victim/complainant namely Daljit Singh in the above said FIR. ”

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 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.05 dated 23.02.2019, registered for the offences punishable under Sections 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station NRI District Moga (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

10. Pending application, if any, shall also stand disposed off.

September 06, 2023
Dpr (Pankaj Jain)
Judge

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