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

CRM-M-28515-2023
Date of decision : 11.10.2023

ROHIT KUMAR ALIAS NIKHIL SHARMAPetitioner

Versus

STATE OF UT CHANDIGARH AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rishu Garg, Advocate for the petitioner.

Mr. Viranjeet S. Mahal, Addl.P.P., U.T., Chandigarh.

Mr. Vinod K. Kanwal, Advocate for
Mr. Ektar Garg, Advocate for respondents No.2 to 12.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0016, dated 18.02.2023, registered for the offences punishable under Sections 420, 120-B of IPC, 1860 (Section 24 of Immigration Act added later on) at Police Station South Sector-34, Chandigarh (Annexure P-1) on the basis of compromise.

2. On 02.06.2023, the following order was passed :-

“The prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.0016, dated 18.02.2023, under Sections 420, 120-B of IPC, 1860 (Section 24 of Immigration Act added later on) registered at Police Station South Sector-34, Chandigarh, along with all subsequent proceedings arising therefrom on the basis of compromise arrived at between the

parties.

Notice of motion.

At the asking of Court, Mr. Viranjeet Singh Mahal, APP for U.T., Chandigarh, appears and accepts notice on behalf of respondent No.1- State.

Ms. Ekta, Advocate, has appeared and filed her power of attorney on behalf of respondent Nos.2 to 12 today in the Court and the same is taken on record.

A copy of the paper book be supplied to them during the course of the day.

Learned counsel for respondent No.2 to 12 has affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of two months, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether challan is presented in the Court? If so, against how many accused;
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iv) status/stage of the trial/case;
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.

Report be sent through the District & Sessions Judge, before the next date of hearing.

Adjourned to 11.10.2023.

Reply, if any, be filed well in time with advance copy to counsel opposite. ”

3. Pursuant to the aforesaid order, report from JMIC, Chandigarh dated 24.07.2023, has been received, which is taken on record. As per the report, The trial Court has recorded as follows:-

“(i) The present case FIR has been registered against only one accused person namely Rohit Kumar @ Nikhil Sharma.

(ii) Challan has not been presented in the present case till date.

(iii) From the statements of parties as well as Investigating Officer, as per the record, one case FIR no. 52 dated 30.4.2023, U/s 420,467,468, 471 IPC, PS 34, Chandigarh has been found to be registered against accused Rohit Kumar and he has not been declared proclaimed in any other criminal case.

(iv) As per record the case is fixed for awaiting challan.

(v) From the statements of parties, it appears that the compromise is genuine/correct and has been effected between parties voluntarily, out of free will and without any coercion or undue influence and is not result of any fraud or misrepresentation.

It is further submitted that complainant as well as accused have duly been identified by their respective counsel vide separate statements. ”

4. Ld. Counsel appearing for private respondents 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. Addl. P.P., Chandigarh 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.0016, dated

18.02.2023, registered for the offences punishable under Sections 420, 120-B of IPC, 1860 (Section 24 of Immigration Act added later on) at Police Station South Sector-34, Chandigarh (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 11, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No