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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 25953-2023
Date of decision: 11.12.2023

Gurinder Singh @ Karan and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jugansh Goyal, Advocate and
Mr. Sandeep Singh, Advocate for
Mr. Vivek Kathuria, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Rajat Verma, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 554 dated 08.11.2021, registered for offences punishable under Sections 406, 411, 120-B IPC, Police Station Zirakpur (Annexure P-1) on the basis of compromise dated 07.12.2021 (Annexure P-2).

2. On 22.05.2023 the following order was passed :

“Prayer in this petition is for quashing of FIR No.554, dated 08.11.2021 registered under Sections 406, 411 and 120-B of IPC at Police Station Zirakpur (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise dated 07.12.2021 arrived at between the parties (Annexure P-2.)

Counsel for the petitioners has referred to para 5 of the petition to submit that the petitioners have not been declared as proclaimed offenders.

Notice of motion.

On the asking of the Court, Mr. Shubham Kaushik, AAG, Punjab accepts notice on behalf of respondent No.1 and Mr. Rajat Verma, Advocate accepts notice on behalf of respondent No.2 and has filed his vakalatnama. The same is taken on record. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 06.06.2023 for getting their statements recorded with regard to the compromise. The Illaqa/Duty Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
 - 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
 - 3. the stage of trial/proceedings is pending;*
 - 4. if the compromise is genuine, voluntary and out of free will of the parties.*
 - 5. Whether any other criminal case is pending against the accused.*
- Report of Illaqa/Duty Magistrate be awaited for 11.07.2023.*

3. Pursuant to the aforesaid order, report dated 07.11.2023 from Judicial Magistrate 1st Class, Dera Bassi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. As per record and statement of the Investigating Officer FIR was registered against only two accused persons namely 1) Gurinder Singh @ Karan 2) Naresh Kumar @ Naresh Rana, who had appeared before this Court and got their statements recorded. None of the accused is absconding/P.O. in this case.

2. As per record and information provided by the Investigating Officer, the present FIR was lodged by the complainant Axay Kumar against two accused persons namely 1) Gurinder Singh @ Karan 2) Naresh Kumar @ Naresh Rana. The complainant Axay Kumar as well as two accused persons namely 1) Gurinder Singh @ Karan 2) Naresh Kumar @ Naresh Rana who are party to the compromise and recorded their statements.

3. Investigation is still in process and challan has not been presented.

4. As per the statements recorded by the parties, this Court is of considered opinion that the compromise effected between the parties is genuine, valid, voluntary and without any coercion or undue influence.

5. *No other proceedings is pending against the other accused/petitioners.”*

4. Learned counsel 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, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 07.12.2021. (Annexure P-2).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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) i.e. heinous offence.*

(ii) The offences alleged 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 is reported to have entered into compromise on his own volition.

9. Consequently, the petition is allowed. FIR No. 554 dated 08.11.2021, registered for offences punishable under Sections 406, 411, 120-B

IPC, Police Station Zirakpur and all proceedings arising therefrom, are,
hereby, quashed *qua* the petitioners.

11.12.2023
Anu

(PANKAJ JAIN)
JUDGE

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