

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

267

CRM-M-26999-2023

Date of decision : 12.09.2023

Amrik Singh and another**..... Petitioners****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Ms. Priyanka Sharma, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Birjinder Singh Loomba, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.80 dated 30.12.2019, registered for offences punishable under Sections 324, 323 and 34 of IPC (Section 326 of IPC added later on) at Police Station Kahnuwan, District Gurdaspur on the basis of compromise dated 21.03.2023 (Annexure P-2).

2. On 30.05.2023, the following order was passed:-

“The petitioners have filed the present petition seeking quashing of FIR No.80 dated 30.12.2019 under Sections 324, 323, 34 IPC registered at Police Station Kahnuwan, District Gurdaspur and all consequential proceedings arising therefrom on the basis of the compromise dated 21.03.2023 (Annexure P-2).

Learned counsel for the petitioners has submitted that the parties have compromised the

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matter and as such, the present FIR is liable to be quashed.

Notice of motion.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab, accepts notice on behalf of respondent No.1 and Mr. Birjinder Singh Loomba, Advocate, accepts notice on behalf of respondent No.2.

Learned counsel for respondent No.2 has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties.

Adjourned to 12.09.2023.

Let the State file status report.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 12.07.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It shall also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report dated 08.08.2023 from JMIC, Gurdaspur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

From the statements, it is apparently appears that

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statements have been given voluntarily and without any coercion or undue influence. It is further submitted that both the parties have appeared and made their statement in support of compromise. As per record of investigating officer, it is also verified that beside the accused (petitioners) mentioned in the petition, there is no other accused in the present FIR and both the accused persons/petitioners namely Amrik Singh and Rajinder Singh are arrayed as accused in other criminal case i.e. FIR No. 15/2018, Under Section: 326,324,341,323,506,34 of IPC, Police Station Kahnuwan, which is pending in the Ld. Court of Sh. Yogesh Gill Judicial Magistrate 1st Class Gurdaspur and they are not declared Proclaimed Offender in any other criminal case. The compromise appears genuine/correct, voluntary and without any coercion or undue influence and the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It is further submitted that complainant has no objection if the present FIR is quashed against the accused persons/petitioners.”

4. Mr. Birjinder Singh Loomba, 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 petitioners 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

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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

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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.80 dated 30.12.2019, registered for offences punishable under Sections 324, 323 and 34 of IPC (Section 326 of IPC added later on) at Police Station Kahnuwan, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

12.09.2023

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Whether speaking/reasoned
Whether Reportable :

Yes
No