

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

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Date of decision : 17.08.2023

1. Rajinder Singh and others Petitioners

versus

State of Punjab and others Respondents

2. Ibrahim and others Petitioners

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kunal Sarangal, Advocate
for the petitioners in CRM-M-26493-2023 and
for respondents No.2 and 3 in CRM-M-26669-2023.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ritesh Pandey, Advocate
for the petitioners in CRM-M-26669-2023 and
for respondents No.2 to 4 in CRM-M-26493-2023.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of cross case/GD No.37 dated 23.07.2016, registered for the offences punishable under Sections 324, 323 and 34 of IPC, at Police Station Dina Nagar, District Gurdaspur and FIR No.133 dated 20.07.2018, registered for offences punishable under Sections 452, 324, 323, 148 and 149 of IPC (Section 34 of IPC added and Sections 148 and 149 of IPC deleted later on vide G.D. No.036) at Police Station Dina Nagar, District Gurdaspur, on the basis of compromise dated 16.09.2022

(Annexure P-2).

2. These are matters arising out of version and cross-version.
3. On 25.05.2023, the following order was passed:-

“Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 133 dated 20.07.2018 registered under Sections 452, 324, 323, 148 and 149 of the Indian Penal Code (Section 34 of IPC added later on and Sections 148 and 149 of IPC removed vide GD No. 036) at Police Station Dinanagar, District Gurdaspur and all subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for the petitioners submits that the dispute has been amicably settled between the private parties in terms of the compromise (Annexure P-2).

Notice of motion.

Mr. P.S. Grewal, DAG Punjab, who is present in the Court accepts notice on behalf of respondent No. 1-State and seeks time to file reply/status report.

Mr. Ritesh Pandey, Advocate has put in appearance on behalf of respondent Nos. 2 to 4, accepts notice on their behalf and admitted the factum of compromise.

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court to get their statement(s) recorded with regard to compromise/settlement within a period of 30 days from today.

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

1. *Number of persons arraigned as accused in 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 and apprise this Court about the stage of proceedings?*

The report of the Illaqa Magistrate/trial Court be awaited for 17.08.2023.

Status report/reply on behalf of State be also filed on the adjourned date.”

4. Pursuant to the aforesaid order, report dated 16.08.2023 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

The parties have appeared before the Court of Duty Magistrate on 17.06.2023. The respondent No 2 Ibrahim son of Lalu resident of Village Juri, P.O. Charda, Tehsil Churah, Chamba, Himachal Pradesh, respondent No.3 Shina daughter of Faqar Din son of Ebrahim and respondent No.4 Shina daughter of Faqar Din on 17.06.2023 recorded their statement regarding compromise similarly, Petitioner Rajinder Singh, Balwinder Pal and Varinder also recorded their statement on 17.06.2023, regarding compromise with the respondents. The identity of the petitioners and respondents is verified from their adhaar cards. Moreso, identity of petitioners and respondents is also verified by investigation officer.

It is further submitted that statement of retired Inspector namely Lakhwinder Singh has been recorded on 27.07.2023. He identified all the petitioners and respondents (Statement of I.O. is attached herewith).

It is further submitted that from the statement of retired inspector Lakhwinder Singh being Investigating Officer, it is transpired that in the present case FIR No.133 dated 20.07.2018, PS Dinanagar, District Gurdaspur under Sections 452, 324, 34 of IPC was got registered against (1) Rajinder Singh, (2). Balwinder Pal, (3) Varinder Singh (4) Makhan and (5) Ravinder Singh. It is further transpired that during inquiry no whereabouts of accused Makhan Singh come into lite and accused Ravinder Singh during inquiry was found to be the same person as accused No.3 namely Varinder Singh and therefore, Challan was only presented against accused only three accused i.e. petitioner No. 1 to 3. It is further submitted that statement of retired Inspector Makhan Singh has been recorded who has stated similarly as stated by Investigation Officer (Retired Inspector Lakhwinder Singh) and further he stated that during investigation he arrested the accused Varinder Singh.

None of the accused have been proclaimed person in the above noted cross case and further no other criminal proceedings are pending against above noted accused persons/petitioners with the complainant/respondents No.2 to 4 at Police Station Dinanagar. It is further stated that no other criminal proceedings are pending against accused at Police Station Dinanagar. It is further stated that Ibrahim is the main complainant/injured along with eyewitness/injured Faqar Deen and Shina. Kaku and Dil

Mohmman are only the eye-witness and did not sustained any injury.

It is also submitted that present case is fixed for prosecution evidence and it is further submitted that from the statement of the parties, it appears that compromise is genuine, voluntary and without any pressure, coercion and undue influence. The original statements of the parties are enclosed herewith.”

5. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. 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.

10. Consequently, the petitions are allowed. Cross case/GD No.37 dated 23.07.2016, registered for the offences punishable under Sections 324, 323 and 34 of IPC, at Police Station Dina Nagar, District Gurdaspur and FIR No.133 dated 20.07.2018, registered for offences punishable under Sections 452, 324, 323, 148 and 149 of IPC (Section 34 of IPC added and Sections 148 and 149 of IPC deleted later on vide G.D. No.036) at Police Station Dina Nagar, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

11. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

17.08.2023
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No