

275-2 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.26470 of 2023
Date of decision : 28.11.2023**

Harjinder Singh

....Petitioner

Versus

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gaurav Kalsi, Advocate
 for the petitioner.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Divyansh Vats, Advocate
for Mr. H.S. Batth, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioner is seeking quashing of DDR No.19 dated 09.04.2023 under Sections 295, 323, 506 IPC registered at PS Sadar Patti, District Taran Taran in (P-2), which is being investigated in FIR No.0039 dated 19.02.2023 under Sections 379-B, 353, 186, 332, 506, 148, 149, 120-B IPC 1860 (Section 379-B deleted and Section 325 added later on), at Police Station Sadar Patti, District Taran Taran (Annexure P-1) and all consequent proceedings arising therefrom on the basis of compromise.

2 On 25.05.2023, the following order was passed:

“The petitioner seek quashing of DDR No.19 dated 09.04.2023 registered at Police Station Sadar Patti, District Taran Taran in FIR No.39 dated 19.02.2023 at Police Station Sadar Patti, District Taran Taran under Sections 379-B, 353, 186, 332, 506, 148, 149, 120-B IPC 1860 (Section 379-B deleted and Section 325 added later on), on the basis of compromise.

Notice of motion.

Mr. Kamalpreet Bawa, AAG Punjab accepts notice on behalf of respondent No.1 and waives service.

Mr. Harchand Singh Batth, Advocate puts in appearance on behalf of respondent No.2 and waives service.

Learned counsel for respondent No.2 admits the factum of compromise.

The parties are directed to appear before the trial Court/Illaq Magistrate on 13.07.2023 at 10.00 a.m. and get their statements recorded and thereafter the said Court shall transmit its report to the Court regarding genuineness of compromise before the next date of hearing i.e. 14.08.2023.

3 Pursuant to the aforesaid order, report dated 27.07.2023 from Sub Divisional Judicial Magistrate, Patti has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In pursuance of Order dated 25.05.2023, petitioner Harjinder Singh appeared before the Sub Judicial Magistrate, Patti on 13.07.2023 for recording their statements with regard to compromise and got recorded in their joint statement that they have entered into compromise with complainant Gurcharan Singh out of their own sweet will and without any pressure or coercion. He has requested the cross case bearing DDR No.19 dated 09.04.2023 in FIR No.39 dated 19.02.2023 registered against him be ordered to be quashed on the basis of compromise. Respondent No.2 Gurcharan Singh also appeared on 13.07.2023 and got recorded his statement that he has entered into compromise with accused Harjinder Singh and have no objection if DDR No.19 dated 09.04.2023 in FIR No.39 dated 19.02.2023 against accused/petitioners be quashed on the basis of compromise.

From the statement of the parties, Ld. Sub Judicial Divisional

Magistrate is satisfied that a valid and genuine compromise has been effected between the parties as per their statements recorded in the Court. The aforesaid compromise appears to be genuine and the has been entered into voluntarily with free will of the parties without any threat or coercion or undue influence or pressure of any kind.”

4 Learned counsel for respondents 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 petitioner is quashed.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (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 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. DDR No.19 dated 09.04.2023 under Sections 295, 323, 506 IPC registered at PS Sadar Patti, District Taran Taran in (P-2), which is being investigated in FIR No.0039 dated 19.02.2023 under Sections 379-B, 353, 186, 332, 506, 148, 149, 120-B IPC 1860 (Section 379-B deleted and Section 325 added later on), at Police Station Sadar Patti, District Taran Taran (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner Harjinder Singh.

28.11.2023
spn

(PANKAJ JAIN)
JUDGE

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