

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

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CRM-M-26685-2023

Date of decision : 18.08.2023

Kulwant Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. M.S. Rana, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Umesh Sharma, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.008 dated 18.01.2023, registered for the offences punishable under Sections 323, 324, 148, 149 and 506 of IPC, at Police Station Mahilpur, District Hoshiarpur, on the basis of compromise deed dated 18.05.2023 (Annexure P-2).

2. On 25.05.2023, the following order was passed:-

“The present petition has been filed for quashing of FIR No.008, dated 18.01.2023, registered under Sections 323, 324, 148, 149 and 506 IPC, at Police Station Mahilpur, District Hoshiarpur (Annexure P-1) along with all subsequent proceedings arising thereof, on the basis of compromise (P-2).

Notice of motion.

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

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Ms. Pinki Mehla, Advocate, puts in appearance and accepts notice on behalf of respondent No.2.

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

The parties are directed to appear before the trial Court/Illaqa Magistrate on 13.07.2023 for getting their statements recorded. After recording the statements of the parties, the learned trial Court/Illaqa Magistrate shall send a report to this Court regarding genuineness of the compromise between them well before the next date of hearing.

Adjourned to 14.08.2023.”

3. Pursuant to the aforesaid order, report dated 27.07.2023 from JMIC, Garshankar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

The matter has been compromised between the parties voluntarily and out of their free will and consent and without any coercion or undue influence. The compromise appears to be genuine. All the accused persons are party to the compromise.”

4. Mr. Umesh Sharma, 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 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.008 dated 18.01.2023, registered for the offences punishable under Sections 323, 324, 148, 149 and 506 of IPC, at Police Station Mahilpur, District Hoshiarpur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

18.08.2023
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No