

290 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.27489 of 2023
Date of decision : 07.12.2023

Tapas Guria

...Petitioner

Versus

State of Haryana & anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kunal Singh, Advocate for
Mr. Tanu Priya Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rajat Singh, Advocate for respondent No.2

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.406 dated 14.10.2019, registered for offences punishable under Sections 338 of IPC registered at Police Station City Bhadurgarh, District Jhajjar, on the basis of compromise.

2. On 29.5.2023, the following order was passed :-

The petitioner has filed the present petition seeking quashing of FIR No.406 dated 14.10.2019 under Section 338 IPC registered at Police Station City Bahadurgarh, District Jhajjar and all consequential proceedings arising therefrom on the basis of the compromise.

Learned counsel for the petitioner has submitted that the parties have compromised the matter and as such, the present FIR is liable to be quashed.

Notice of motion.

Mr. B.S. Virk, Sr. Deputy Advocate General, Haryana, accepts notice on behalf of respondent No.1 and Mr. Rajat Singh, 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 petitioner and has not denied the factum of compromise effected between the parties.

Adjourned to 11.09.2023.

Let the State file status report. In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 11.07.2023 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 11.08.2023 from Addl. Civil Judge (Sr.Division)-cum- SDJM, Bahadurgarh has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

The I.O. appeared in person before the Court and his statement was recorded. In compliance of the Order of the Hon'ble Punjab & Haryana High Court passed in CRM-M-27489-2023, separate statements of complainant Hari Om son of Sh. Kailash Chand, resident of village Silothi, Bahadurgarh, recovery witness namely Budhi Sagar Pandey son of Sh. Nar Singh Pandey, resident of Delhi, accused Tapas Guria son of Sh. Raj Kishan Guria, resident of A1, 158, Om Vihar, Gali No. 4, Delhi-59 recorded to the effect that they have settled their dispute amicably without any pressure or coercion. The complainant has endorsed 'no objection', if the present FIR registered against the accused persons is quashed.

In the considered opinion of this court, the parties have voluntarily suffered their respective statements and have compromised the matter without any undue influence, coercion or pressure.

On the basis of statement of the I.O., it is further reported that :-

- 1. Only Tapas Guria is the accused in the present case.*
- 2. The accused has not been declared proclaimed person/ offender by the court of undersigned in any case till date.*
- 3. No other criminal case is pending against the accused.*
- 4. Statements of complainant Hari Om, accused Tapas and eye-witness B.S. Pandey duly identified by the I.O. and their counsels, were recorded and the compromise between the parties is genuine, voluntary and without any coercion or undue influence.*

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 02.05.2023 (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.406 dated 14.10.2019, registered for offences punishable under Sections 338 of IPC registered at Police Station City Bhadurgarh, District Jhajjar and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

07.12.2023
raman

(PANKAJ JAIN)
JUDGE

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