

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-33536-2022
Date of decision: 27.07.2023

JAGGA SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kamal Narula, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Munish Gulati, Advocate
for respondent No.2.

PANKAJ JAIN. J.(Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.189 dated 04.09.2020 registered for the offences punishable under Sections 452, 323, 427,506,148 and 149 of Indian Penal Code at Police Station Vairoke, District Fazilka (Annexure P-1) on the basis of compromise dated 11.07.2022 (Annexure P-2).

2. On 01.08.2022, the following order was passed :

“1. Notice of motion.

2. Mr. P.P. Chahar, DAG, Haryana, waives service on behalf of respondent No. 1-State.

3. Mr. Prabhjayot Singh Chahal, Advocate, puts his appearance on behalf of respondent No. 2, and, files the power of attorney.

4. Before proceeding to quash FIR No. 189, dated 04.09.2020,

registered at Police Station Vairoke, District Fazilka, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after summoning the petitioners, and, respondent No. 2, and, after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the authenticity of the compromise drawn amongst them, as embodied in Annexure P-2, to make a report with respect to the compromise (supra).

5. *The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; (c) whether the prosecution evidence has commenced; and (d) whether all the concerned have signed the compromise deed.*

6. *The afore made report be ensured to be transmitted to this Court on or before the next date of hearing.*

7. *For the afore purpose, list on 15.11.2022.*

8. *In view of the compromise, in respect whereof the learned Illaqa Magistrate is directed to transmit his report to this Court, therefore, he is restrained, till further orders, from taking up any further judicial proceedings, in respect of FIR (supra)."*

3. Pursuant to the aforesaid order, report from Judicial Magistrate First Class, Jalalabad(W) dated 15.09.2022 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"In view of the statements made by both the parties, report is submitted as under:-

1. *There are only five persons named as accused in the FIR in question.*
2. *No accused is proclaimed offender in the present FIR.*
3. *Report under Section 173 of Cr.P.C. has not been filed in the court till date and as such no charge was framed and even prosecution evidence has not commenced.*
4. *The compromise effected between the parties is found to be genuine, without any threat, undue influence or coercion.*

5. *The compromise deed has been signed by both the parties.
The report is submitted, accordingly."*

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 11.07.2022 (Annexure P-2).

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.189 dated 04.09.2020 registered for the offences punishable under Sections 452, 323, 427, 506, 148 and

149 of Indian Penal Code at Police Station Vairoke, District Fazilka (Annexure P-1) on the basis of compromise dated 11.07.2022 (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

July 27, 2023
Amandeep

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