

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

CRM-M-30760 of 2023
DATE OF DECISION :- 25.09.2023

Gopal Chand @ Lovely @ Bittu and others **...Petitioners**

Versus

State of Punjab and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Paramjit Kumar, Advocate
for Mr. Jasjeet Singh Virk, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Nirmaljit Singh Sidhu, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

This is case of version and cross version. By way of present petition, the petitioners are seeking quashing of DDR/GD No.46 dated 18.5.2023, registered for the offence punishable under Sections 323, 324, 506, 34 of the Indian Penal Code, Police Station Rampura, District Bathinda in FIR No.102 dated 18.5.2023, registered for the offence punishable under Sections 452, 324, 323, 506, 148, 149 of the Indian Penal Code, Police Station City Rampura, District Bathinda, on the basis of compromise dated 26.5.2023 (Annexure P-3).

2. On 03.7.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of DDR/GD No.46 dated 18.05.2023, registered for offences punishable under Sections 324, 323, 506

and 34 of IPC, at Police Station City Rampura, District Bathinda in FIR No.102 dated 18.05.2023, registered for offences punishable under Sections 452, 324, 323, 506, 148 and 149 of IPC, at Police Station City Rampura, District Bathinda and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide panchayati compromise dated 26.05.2023 (Annexure P-3).

Notice of motion for 25.09.2023.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Nirmaljeet Singh Sidhu, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Duty Magistrate on 16.08.2023.

On their doing so, the learned Duty Magistrate shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the 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.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Duty Magistrate shall be at liberty to call the parties on any other date but not

later than a week thereafter.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate First Class, Phul dated 16.9.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. As per statement of HC Ram Singh, No. 1665/BTI, P.S. City Rampura, there are only six accused namely Gopal Chand @ Lovely @ Bittu, Shallu, Manish Kumar, Saroj Rani, Vivek Goyal and Rakesh Kumar in the present case. As per the statement of complainant Manpreet Singh, the present FIR was lodged by him against accused Gopal Chand @ Lovely @ Bittu, Shallu, Manish Kumar, Saroj Rani, Vivek Goyal and Rakesh Kumar only.

2.As per the statement of HC Ram Singh, No. 1665/BTI, P.S. City Rampura, no accused has been declared proclaimed offender.

3.The compromise effected between the parties appears to be genuine voluntary and without any coercion or undue influence. Statements of parties were duly recorded before the undersigned and they were duly identified by their respective counsel.

4.As per the statement of HC Ram Singh, No. 1665/BTI, P.S. City Rampura, no accused has been involved in any other case.

5.As per the statement of HC Ram Singh, No. 1665/BTI, P.S. City Rampura, there is one complainant namely Manpreet Singh in the present case.”

4. Mr. Nirmaljit Singh Sidhu, 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 DDR/GD in 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. DDR/GD No.46 dated 18.5.2023, registered for the offence punishable under Sections 323, 324, 506, 34 of the Indian Penal Code, Police Station Rampura, District Bathinda in FIR No.102 dated 18.5.2023, registered for the offence punishable under

Sections 452, 324, 323, 506, 148, 149 of the Indian Penal Code, Police Station City Rampura, District Bathinda and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

25.09.2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No