

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

**CRM-M-32227 of 2022
DATE OF DECISION :- 19.09.2023**

Gurgagandeep Singh @ Gagi and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Ms. Amandeep Kaur, Advcate
for Mr. Vikas Arora, Advocate for the applicant.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. G.S. Sidhu, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.09 dated 29.1.2017, registered for the offence punishable under Sections 452,323,382,506,148,149,427 of the Indian Penal Code and Section 25/27/54/59 of the Arms Act, Police Station Sadar Ahmedgarh, District Malerkotla, on the basis of compromise dated 10.6.2022 (Annexure P-2).

2. On 26.7.2023, the following order was passed:-

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings

emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for 2.2.2023.

At this stage, Mr. Gurbir Singh Sidhu, Advocate has put in appearance on behalf of respondent No.2 and has filed Vakalatnama, which is taken on record.

The parties are directed to move an application before the trial Court/Illaq Magistrate concerned for getting their statements recorded qua the factum of compromise. As and when any such application is moved and put up before the trial Court/Illaq Magistrate, the trial Court/Illaq Magistrate shall consider the said application and do the needful for recording the statements of the parties qua the factum of the compromise, on any convenient date. After recording the statements of all the affected parties, and upon getting requisite information from Investigating Officer, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded, broadly on the following aspects:

(i) Whether there is any other accused other than the petitioner, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

(iv) Whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion?

The report be submitted before this Court on or before the next date.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Malerkotla dated 10.10.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. As per record in hand, ten persons namely Gurgagandeep Singh @ Gagi, Aslam Khan, Bikramjit Singh @ Vicky, Mohd. Ikram @ Bura, Dapinder Singh @ Deepa, Harpreet Singh, Kanwalpreet Singh @ Billa, Ravi Sharma, Deepa Sarpanch and Gurpreet Singh were arrayed as accused in the present FIR. However, during inquiry accused persons namely Ravi Sharma @ Goli son of Jatinder Pal Singh, Birakmjit Singh @ Vicky son of Baljit Singh and Deepa Sarpanch were declared as innocent and accused Gurpreet Singh son of late Bhinder Singh has died. Accordingly, challan against accused Gurgagandeep Singh @ Gagi, Aslam Khan, Kanwalpreet Singh @ Billa, Mohd. Ikram @ Bhura, Dapinder Singh @ Deepa and Harpreet Singh was presented in the present FIR.

2. There is another person namely Sahil Sharma who is aggrieved/affected party in the present case, whose statement has also been recorded by undersigned and he has also given his no objection if FIR is quashed.

3. As per record in hand, none of accused is proclaimed offender in present case.

4. That as per statements of complaint and accused persons they have settled the matter and compromise effected between them is genuine, voluntarily and without any kind of undue influence and coercion.”

4. Mr. G.S. 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 petitioner 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.09 dated 29.1.2017, registered for the offence punishable under Sections 452,323,382,506,148,149,427 of the Indian Penal Code and Section 25/27/54/59 of the Arms Act, Police Station Sadar Ahmedgarh, District

Malerkotla and all proceedings arising therefrom, are, hereby, quashed qua
the petitioners.

(PANKAJ JAIN)
JUDGE

19.09.2023
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No