

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

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CRM-M-30753-2023

Date of decision : 17.08.2023

Chirag Bisla and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Balkar Singh, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Vikas Sonak, Advocate for
Mr. Rahul Makkar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.237 dated 11.05.2023, registered for offences punishable under Sections 323, 328, 506 and 120-B of IPC at Police Station Sector 32-33, Karnal, on the basis of compromise deed dated 12.06.2023 (Annexure P-2).

2. On 16.06.2023, the following order was passed:-

“The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.237 dated 11.05.2023 (Annexure P-1) under Sections 323, 328, 506, 120-B of the IPC registered at Police Station Sector 32-33, Karnal and all subsequent proceedings arising therefrom on the basis of compromise dated 12.06.2023 (Annexure P-2) effected between the parties.

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Notice of motion.

At this stage, Mr. Pankaj Mulwani, Deputy Advocate General, Haryana, appears and accepts notice on behalf of respondent No.1-State.

Mr. Rahul Makkar, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise dated 12.06.2023 (Annexure P-2) and filed his power of attorney in Court today, which is taken on record.

The parties are directed to appear before the Illaqa/Duty Magistrate/trial Court on 17.07.2023 or any other date convenient to the Court for recording their respective statements with regard to compromise/settlement.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;
- (ii) Whether any accused is proclaimed offender;
- (iii) The stage of trial/proceedings;
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.
- (v) Whether the compromise has been effected with all the accused persons and with all the complainant(s)/injured.

To come up on 17.08.2023 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.”

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3. Pursuant to the aforesaid order, report dated 25.07.2023 from JMIC, Karnal has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

After going through the statements of the parties and after enquiring from the counsel representing the two sides. I am of the view that the compromise has been arrived at between Preeti (complainant), and accused named Chirag Bisla, Dharam Singh, Kamlesh Kumari, Shabnam & Saroj Bala voluntarily without any threat, pressure, under influence or fraud by their own sweet will. Thus, in my considered opinion, the compromise and the settlement arrived at between the two sides is genuine and voluntarily act of the parties and the complainant has no objection in quashing of the FIR registered against the accused on their statement.”

4. Mr. Vikas Sonak, Advocate for Mr. Rahul Makkar, 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

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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.237 dated 11.05.2023, registered for offences punishable under Sections 323, 328, 506 and 120-B of IPC at Police Station Sector 32-33, Karnal and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

17.08.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No