

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

283

CRM-M-30756-2023

Date of decision : 17.08.2023

Kunal Kumar Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Garg, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Harmanpreet Singh, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.46 dated 17.03.2023, registered for offences punishable under Sections 279, 337, 338 and 427 of IPC at Police Station Phase-I, District SAS Nagar, on the basis of compromise dated 13.06.2023 (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.46 dated 17.03.2023 (Annexure P-1) under Sections 279, 337, 338, 427 of the IPC registered at Police Station Phase-I, District S.A.S. Nagar and all consequential proceedings arising therefrom on the basis of compromise dated 13.06.2023 (Annexure P-2) effected between the parties.

Notice of motion.

2023:PHHC:120602

At this stage, Mr. Charanpreet Singh, Assistant Advocate General, Punjab, appears and accepts notice on behalf of respondent No.1-State.

Mr. Raman Kumar, Advocate, appearing on behalf of respondents No.2 and 3 admits the execution of compromise dated 13.06.2023 (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.”

3. Pursuant to the aforesaid order, report dated 10.08.2023 from Chief Judicial Magistrate-cum-Addl. Civil Judge (Senior Division), SAS Nagar, Mohali has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. There is only one accused in present FIR namely Kunal Kumar.
2. Accused Kunal Kumar has not been declared as proclaimed offender.
3. Stage of the proceedings is Investigation and Final Report of Police has not been submitted.
4. As per the statements of the parties, the compromise effected between accused/petitioner and complainant/respondent no.2 and injured/respondent No.3 is genuine, voluntary and without any coercion or undue influence.
5. Compromise has been effected between sole accused of present FIR Kunal Kumar, on one hand and only complainant Sukhmandeep Singh and only injured Karanveer Singh, on other hand. So, all of accused and all of complainant/injured are party to compromise.”

4. Mr. Harmanpreet Singh, Advocate appears for respondents No.2 & 3 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.46 dated 17.03.2023, registered for offences punishable under Sections 279, 337, 338 and 427 of IPC at Police Station Phase-I, District SAS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

17.08.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No