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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.30842 of 2023
Date of decision : 28.11.2023**

Sukhdeep Singh

....Petitioner

Versus

State of Haryana and anr.

.....Respondents**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN*********Present : Mr. Sukhdeep Singh, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG Haryana.

Mr. Kamlesh, Advocate
for respondent No.2.*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.0218 dated 30.07.2020, registered under Sections 406, 420 and Section 24 of the Immigration Act, at Police Station Nissing District Karnal, and all consequent proceedings arising therefrom on the basis of compromise.

2 On 19.07.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of the FIR No. 0218 dated 30.07.2020 under Sections 406, 420 IPC and Section 24 of Immigration Act registered at Police Station Nissing District Karnal and all subsequent proceedings arising thereto on the basis of compromise.

Learned Counsel for the petitioner contends that the

matter already stands compromised vide Compromise Deed dated 15.04.2023 (Annexure P-2).

Notice of motion.

Mr. Gaurav Bansal, DAG, Haryana appears and accepts notice on behalf of respondent No.1-State.

Mr. Kamlesh, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Illaqa Magistrate on 16.08.2023. On their doing so, the learned Trial Court/Illaqa 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 complaint.*
- 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 complaint.*

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 Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 18.09.2023.”

3 Pursuant to the aforesaid order, report dated 22.08.2023 from Judicial Magistrate 1st Class, Karnal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“As per order dated 19.07.2023 passed by Hon’ble High Court the parties

had been directed to appear before the trial Court/Area Magistrate on 16.08.2023 : the Trial Court/Area Magistrate has been directed to record statement of parties and submit its report regarding - (I) Number of persons arrayed as accused in the complaint (ii) Whether any accused is proclaimed offender? (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence? (iv) Whether the accused persons are involved in any other case or not. The investigation officer appeared in Court and made statement to the effect that there are only two accused persons namely Sukhdeep son of Surjeet Singh and Manoj Kumar son of Dharam Singh ; none of them is declared proclaimed offender in any case ; three other cases arising out of FIR No.13 dated 01.02.2019, u/s 406, 420 IPC and 24 Immigration Act, P.S. Jhansa, FIR No.411 dated 27.08.2018, u/s 406, 420, 506, 34 IPC, P.S. Pehowa, FIR No.110 dated 15.03.2018, u/s/ 279, 337, 427 IPC, P.S. Baldevnagar are pending against accused Sukhdeep Singh ; no other case is pending against accused Manoj Kumar ; there is only one complainant – Manish son of Om Parkash. The separate statement of the parties (complainant and accused Sukhdeep Singh) were recorded in Court. The complainant stated that he has compromised the matter with the Sukhdeep Singh on panchayat basis, now give or take survive between them, he has not compromised the matter with Manoj who is purportedly abroad, the compromise is voluntary, without any pressure, there is no objection if the case is finished qua accused Sukhdeep Singh and the Sukhdeep Singh was recorded who stated that he has compromised the matter with the complainant Manish on panchayat basis, now no give or take survive between them, the compromise is voluntary, without any pressure, the case may be finished. The compromise between complainant and accused Sukhdeep Singh is genuine, voluntary, without any pressure. The original statements of the the complainant and accused Sukhdeep Singh, the statement of the investigation officer, copy of daily order passed today are annexed herewith for kind perusal of the Hon'ble High Court.”

4 Learned counsel for respondents 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 petitioner is quashed.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

6 I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7 This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding in non-compoundable offences in the cases of ***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 much wise and is unaffected 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) i.e. heinous offence.*
- (ii) The offences alleged 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 is reported to have entered into compromise on his own volition.*

9 Consequently, the petition is allowed. FIR No.0218 dated 30.07.2020, registered under Sections 406, 420 of IPC and Section 24 of Immigration Act at Police Station Nissing, District Karnal and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

28.11.2023
spn

(PANKAJ JAIN)
JUDGE

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