

Neutral Citation No. 2023:PHHC:117293

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

278

CRM-M-30922-2023 (O&M)

Decided on : 05.09.2023

Zafar Khan and another

. . .Petitioner

Versus

State of Punjab and others

. . . Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

PRESENT: Ms. Gagandeep Kaur, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Bhupinder K. Bhangu, Advocate
for respondents No. 2 & 3.

PANKAJ JAIN , J. (Oral)

Prayer is for quashing of FIR No.70 dated 21.05.2023 registered for the offences punishable under Sections 458, 324, 323, 506 and 34 of the Indian Penal Code at Police Station Sadar Dhuri, District Sangrur (Annexure P-1) on the basis of compromise.

2. On 03.07.2023, the following order was passed :-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.70 dated 21.05.2023 registered under Sections 458, 324, 323, 506 and 34 Indian Penal Code at Police Station Sadar Dhuri, District Sangrur.

Notice of motion for 05.09.2023.

At the asking of the Court, Mr. Sandeep Kumar, DAG Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

At this stage, Ms. Bhupinder K. Bhangu, Advocate causes representation on behalf of respondents No.2 and 3 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on or before 03.08.2023 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

- 1. Number of persons arrayed as accused in 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 through fax to the Registrar Judicial of this Court.”

3. Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Dhuri dated 11.08.2023 has been received, which is

taken on record. As per the report, the trial Court has recorded as follows:-

“(i) **Number of persons arrayed as accused in the FIR;**

As per the statement of Investigating Officer ASI Gurjit Singh No 253/SGR, there are four persons arrayed as accused in this FIR namely Sardar Khan son of Sohna Khan, Razia Begam a Rano Kaur wife of Sardar Khan both residents of village Kaleran, Tehsil Dhuri. Sadi Khan @ Shamsad Ali son of Nazir Khan, Zafar Khan son of Nazir Khan both residents of village Herike, Tehsil Dhuri.

(ii) **Whether any accused is proclaimed offender;**

As per the statement of Investigating Officer ASI Gurjit Singh No. 253/SGR. none of the accused is declared as proclaimed Offender.

(iii) **Whether the compromise is genuine, voluntary and without any coercion or undue influence;**

From the statements of the parties recorded, it appears that the said compromise is genuine and has been effected voluntarily without any force, coercion or undue influence and out of free will of the parties.

(iv) **Whether the accused persons are involved in any other case or not?**

As per the statement of Investigating Officer and statement of accused, accused are not involved in any other FIR.”

4. Ld. Counsel appearing for respondents No.2 & 3 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. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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)SCC303, *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 charge sheet 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.70 dated 21.05.2023 registered for the offences punishable under Sections 458, 324, 323, 506 and 34 of the Indian Penal Code at Police Station Sadar Dhuri, District Sangrur (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

**(PANKAJ JAIN)
JUDGE**

September 05, 2023

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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
Whether Reportable:	Yes/No