

CRM-M No.30996 of 2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.30996 of 2023

Date of decision : 24.07.2023

Kusum Lata

....Petitioner

Versus

State of Haryana and Anr.

....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Parminder Singh, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

None for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.311 dated 06.04.2023 under Sections 3(1)(r) and Section 3 (1)(S) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act of 1989 (Amendment 2015) registered at P.S Sadar Karnal, District Karnal, on the basis of compromise deed dated 16.06.2023 (Annexure P-2).

2. On 21.06.2023, the following order was passed :

“Present petition is for quashing of FIR No.311 dated 06.04.2023 under Sections 3(1) (r) and Section 3(1) (s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act of 1989 (Amendment 2015) registered at Police Station Sadar Karnal, District Karnal, on the basis of compromise deed dated 16.06.2023 (Annexure P2) arrived at between the parties.

Notice of motion.

On asking of the Court, Mr. Sharan Sethi, Addl. A.G., Hayrana, who is present in the Court, accepts notice on behalf of respondent-State. Mr. Pardeep Kumar, Advocate, has put in appearance on behalf of respondent No.2 and filed his Memo of Appearance. Complete copy of paper book be supplied to them during the course of the day.

Let the parties/the Investigating Officer appear before the trial Court/Area Judicial Magistrate on 13.07.2023 for getting their statements recorded with regard to the compromise. The learned trial Court is directed to indicate (i) how many total accused are facing the trial, (ii) whether any of the accused was declared proclaimed offender at any stage of trial (iii) status/stage of the trial/case, (iv) to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and (v) to send its report to this Court through District and Sessions Judge, before the next date of hearing. Adjourned to 24.07.2023.”

3. Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Karnal dated 15.07.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“a). As per police report, as referred above, undersigned is of the view that only one accused is involved in the FIR in question.

b). As per police report, none of the accused was declared as proclaimed offender at any stage of trial; &

c). As per statement of IO, FIR in question is at the stage of carrying out investigation.

d). Undersigned recorded the statements of parties with regard to the compromise and as per statements of the parties,

undersigned is of the view that compromise effected between complainant/respondent No.2 namely Sunita Rani wife of Deepak Kumar and petitioner/accused namely Kusum Lata, is genuine and valid.”

4. Learned counsel for respondent 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 dated 16.06.2023 (Annexure P-2).

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.

The parties are colleagues working at the same place. Both of them have decided to bury the hatchet and recognizing their sentiments of peaceful co-existence as reflected in compromise will only advance harmony at their work place.

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9. Consequently, the petition is allowed. FIR No.311 dated 06.04.2023 under Sections 3(1)(r) and Section 3 (1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act of 1989 (Amendment 2015) registered at P.S Sadar Karnal, District Karnal and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

July 24, 2023
manoj

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable : No