

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

CRM-M-31210 of 2023

DATE OF DECISION :- 25.09.2023

Raj Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. S.K. Daaria, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Davinder Singh Khurana, Advocate
for Mr. Manish Chaudhary, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

Reply by way of affidavit filed by Narinder Singh, HPS, Deputy
Superintendent of Police, Panipat filed. The same is taken on record.

2. By way of present petition, the petitioner is seeking quashing of
FIR No.434 dated 13.8.2022, registered for the offence punishable under
Sections 420/406 of the Indian Penal Code, Police Station Quilla Panipat,
District Panipat, on the basis of compromise dated 15.6.2023(Annexure P-2).

3. On 03.7.2023, the following order was passed:-

*“The present petition has been moved invoking jurisdiction of
this Court under Section 482 Cr.P.C. The petitioner is seeking
quashing of FIR No.434 dated 13.08.2022, registered for
offences punishable under Sections 420 and 406 of IPC, at
Police Station Quilla Panipal, District Panipat 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 15.06.2023 (Annexure P-2).

Notice of motion for 25.09.2023.

Mr. Gaurav Bansal, DAG, Haryana, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Munish Raj Chaudhary, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Duty Magistrate on 16.08.2023.

On their doing so, the learned Duty 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 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 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 Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.”

4. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Panipat dated 24.8.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Vide order dated 03.07.2023 passed by Hon'ble Punjab &

Haryana High Court in CRM-M-31210-2023, 1, being the Illaqa Magistrate has been directed to record statements of the parties and thereafter, to send report, to the Hon'ble High Court, regarding the voluntariness of the compromise. The statements of the complainant Tarun Batra and accused Raj Kumar recorded. Report filed by SI Jaibir Singh, P.S. Quilla, Panipat.

Accordingly, in compliance of aforesaid order of Hon'ble High Court report is hereby sent to the Hon'ble High Court through proper channel.

The complainant/respondent namely Tarun Batra duly identified by Investigating Officer SI Jaibir Singh got recorded his statement that he settled the matter with the accused amicably. He also stated that he has no objection if the FIR at hand is cancelled/quashed by Hon'ble High Court and further stated that he have given this statement without any coercion or undue influence and with his free will.

Accused/Petitioner Raj Kumar duly identified by Investigating Officer SI Jaibir Singh got recorded his statement that he has entered into settlement with complainant/respondent without any coercion, undue influence, fraud, misrepresentation and with free will.

In my opinion, in view of the present separate statement of respondent/complainant Tarun Batra and accused/petitioner Raj Kumar, the matter has been compromised between the said parties voluntarily, without any pressure, coercion and undue influences from any corner.

Report filed by SI Jaibir Singh, P.S. Quilla, Panipat also perused. The information as sought by the Hon'ble High Court is submitted here as under:

1. As per the report of SI Jaibir Singh, only one accused i.e. Raj Kumar and Paramjeet are arrayed in the present FIR.

2.As per the report of I.O./SI Jaibir Singh, accused is not declared Proclaimed offender/person in the present FIR.

3.As per the statement of complainant/respondent as well as accused/petitioner, the undersigned is of the view that compromise between the parties is genuine and voluntarily.

4.As per the statement of SI Jaibir Singh, no other case is pending against accused.

5.As per the statement of SI Jaibir Singh, only one victim/complainant i.e. Tarun Batra is there in the present FIR. Submitted for kind information and necessary action please.”

5. Mr. Davinder Singh Khurana, Advocate for Mr. Manish Chaudhary, 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 petitioner are quashed.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. 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.*

9. 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.*

10. Consequently, the petition is allowed. FIR No.434 dated 13.8.2022, registered for the offence punishable under Sections 420/406 of the Indian Penal Code, Police Station Quilla Panipat, District Panipat and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

25.09.2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No