

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

**CRM-M-31999-2020
Date of decision : 19.07.2023**

SAJAN JOSHI

....Petitioner

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjeev K. Virk, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Lakhvir Kumar, Advocate for
Mr. Navraj Singh, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of order dated 06.04.2017 (Annexure P-3) passed by learned Sub-Divisional Judicial Magistrate, Phagwara, District Kapurthala whereby the petitioner has been declared a proclaimed person and quashing of FIR No.124 dated 14.10.2014 registered for the offences punishable under Sections 323, 341, 148, 149 of the Indian Penal Code, 1860 at Police Station Phagwara City, District Kapurthala (Annexure P-1) on the basis of compromise.

2. On 12.10.2020, the following order was passed :-

“The case has been taken up for hearing through video conferencing.

The petitioner has filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of order

dated 06.04.2017 passed by learned Sub-Divisional Judicial Magistrate, Phagwara, District Kapurthala whereby the petitioner has been declared a proclaimed person and quashing of FIR No.124 dated 14.10.2014 registered under Sections 323, 341, 148 read with Section 149 of the Indian Penal Code, 1860 in Police Station Phagwara City, District Kapurthala and all subsequent proceedings arising therefrom on the basis of compromise dated 06.11.2017.

Notice of motion.

Pursuant to supply of advance copy of the petition Mr. N.K. Banka, DAG, Punjab has appeared and accepted notice on behalf of respondent No.1-State.

Mr. Navraj Singh, Advocate has appeared and accepted notice on behalf of respondent No.2.

Learned Counsel for respondent No.2 admits the factum of compromise and also undertakes to file his power of attorney in the Registry.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 30.10.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing i.e. 17.11.2020 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. Current stage of the case.

The trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State be filed on the date of hearing fixed, if so desired. ”

3. Pursuant to the aforesaid order, report from SDJM, Phagwara dated 09.11.2020 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- “1. As per FIR, Nine persons were arrayed as accused.**
- 2. As per case file, earlier accused Parmod Joshi was declared as proclaimed person and his case was decided vide judgment dated 19.07.2019, passed by this Court and the present petitioner/accused Sajan Joshi was also declared as proclaimed person.**
- 3. In view of the statements of the parties and compromise produced on record, the compromise effected between the present parties Sajan Joshi and Gurshinder Singh is genuine, voluntary and without any coercion or undue influence.**
- 4. As per statement of the parties and ASI Surinder Singh No.952/KPT, there is no other case pending between Sajan Joshi and Gurshinder Singh.**
- 5. The present FIR No.124 dated 14.10.2014 was quashed against accused Manohar Joshi, Vinod Joshi, Vinay Joshi, Rajan Joshi, Sandeep Chouhan, Shiv Kumar and Mohinder Pal as per order dated 05.12.2018, passed by the Hon'ble Punjab and Haryana High Court in CRM-M No.48518 of 2017 in CRM-M No.48604 of 2017. The case/present FIR against accused Parmod Joshi was decided vide judgment dated 19.07.2019 passed by this Court.”**

4. Ld. Counsel appearing 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 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) 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. Order dated 06.04.2017 (Annexure P-3) passed by learned Sub-Divisional Judicial Magistrate, Phagwara, District Kapurthala whereby the petitioner has been declared a proclaimed person is set aside. FIR No.124 dated 14.10.2014 registered for the offences punishable under Sections 323, 341, 148, 149 of the Indian Penal Code, 1860 at Police Station Phagwara City, District Kapurthala (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

July 19, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No