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

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CRM-M-32478-2023

Date of decision : 16.10.2023

Inamul Hasan**..... Petitioner****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Talim Hussain, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Mohammed Sebir, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. Status report by way of affidavit of Varun Dahiya, HPS, Assistant Commissioner of Police, Crime, Gurugram on behalf of respondent No.1-State has been filed. The same is taken on record.
2. By way of present petition, the petitioner is seeking quashing of FIR No.0056 dated 23.02.2020, registered for the offence punishable under Section 379-A of IPC (Section 411 of IPC added later on) at Police Station Industrial Sector-7 Manesar, District Gurgaon on the basis of compromise deed dated 31.05.2023 (Annexure P-2).
3. On 10.07.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.0056, dated 23.02.2020, registered for offences punishable under Sections 379-A and 411 (added later on) of the Indian

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Penal Code, 1860 at Police Station Industrial Sector-7, Manesar, District Gurugram, Haryana and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 31.05.2023 (Annexure P-2).

Notice of motion for 16.10.2023.

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

Mr. Vikram Rathore, 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/Duty Magistrate on 11.08.2023. On their doing so, the learned Trial Court/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.

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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.”

4. Pursuant to the aforesaid order, report from JMIC, Gurugram dated 18.08.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

Vide order dated 10.07.2023, the Hon'ble High Court had further directed the trial court to make report in respect of (i) number of persons arrayed as accused in the FIR (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 (v) 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. In this regard, status report from the Investigating Officer was sought and the same was received today i.e. 18.08.2023 and statement of Investigating Officer [ASI Amilal No. 325/GGM PS CIA Sector-39/GGM] has been recorded. It has been stated in the report that the present case was registered on the basis of complaint made by complainant Ajay Loura against Inamul Hasan and others. There are four accused persons involved in the present case i.e. Inamul Hasan; Sharif Khan S/o Hakam Ali R/o Village Lehrawadi, Punhana, Nuh and two other persons namely Habib and Ashvak who have not been arrested as they are not

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traceable. There are two victims namely Ajay Loura and Atvir. There are thirteen persons who have been arrayed as witnesses in the present case. It has further been reported that no other criminal proceedings are pending against accused Inamul Hasan nor he has been declared proclaimed person.

As per the status report and statement of Investigating Officer, there are four accused persons involved in the present case and two have been arrested whereas the other two persons (Habib and Ashvak) are not traceable. Accused Inamul Hasan has arrived at compromise with the complainant (Ajay Loura) and eye-witness Atvir. He has not been declared proclaimed person nor any criminal proceedings are pending against him. There are two victims in the present case namely Ajay Loura and Atvir.

It is further submitted that as per the statement of the parties, the compromise is genuine, voluntary and without any coercion or undue influence.”

5. Mr. Mohammed Sebir, Advocate appears for respondents No.2 and 3 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,**

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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

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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.0056 dated 23.02.2020, registered for the offence punishable under Section 379-A of IPC (Section 411 of IPC added later on) at Police Station Industrial Sector-7 Manesar, District Gurgaon and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

16.10.2023
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No