

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

279-2

CRM-M-32373-2023

Date of decision : 18.08.2023

ASHWANI KUMAR AND OTHERS

....PETITIONERS

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjeev Kumar Bawa, Advocate for the petitioners.

Mr. Kunal Viyanak, AAG, Punjab.

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondent Nos.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of DDR No.11 dated 27.07.2019 under Sections 323, 341, 34 IPC in FIR No.162, dated 27.07.2019, registered for the offences punishable under Section 341, 323, 427 and 34 IPC at Police Station Goraya, Jalandhar (Annexure P-2) on the basis of compromise.

2. On 20.07.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of DDR No. 11 dated 27.07.2019 under Sections 323, 341, 34 IPC in FIR No. 0162 dated 27.07.2019 under Sections 341,323,427 and 34 IPC registered at Police Station Goraya District Jalandhar 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 17.03.2021 (Annexure P-3).

Notice of motion.

Mr. Tarun Aggarwal, Senior DAG., Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Mukesh Kumar, Advocate appears and accepts notice on behalf of respondent No.2 and 3 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/Illaq Magistrate on 26.07.2023. On their doing so, the learned Trial Court/Illaq 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 complaint.*
- 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 complaint.*

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.

To come up on 18.08.2023.

To be listed along with CRM-M-41931-2020.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Phillaur dated 01.08.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“I am satisfied that the compromise is genuine between the parties and the same is outcome of their own freewill and without any force, coercion or undue

influence.

As per statement of investigating officer, none of the accused is declared as a proclaimed offender in this case or any other criminal case.

As per the statement of investigating officer, the accused persons are not involved in any other FIR.

As per the statement of Investigating officer, there is only one complainant namely Nitin Kumar Abbi and another victim/injured namely Sumit Kumar Abbi in the present case.”

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 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) 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. DDR No.11 dated 27.07.2019 under Sections 323, 341, 34 IPC in FIR No.162, dated 27.07.2019, registered for the offences punishable under Section 341, 323, 427 and 34 IPC at Police Station Goraya, Jalandhar (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

18.08.2023
pry

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No