

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

**CRM-M-32685 of 2023
DATE OF DECISION :- 25.09.2023**

Shahid

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Gaurav Gupta, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Krishan Daaria, Advocate
for Mr. Gaurav Singla, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

It is a case where only one of the accused has approached this Court seeking quashing of FIR No.0016 dated 11.1.2022, registered for the offence punishable under Sections 406/420 of the Indian Penal Code and Sections 467/468/471/120-B of the Indian Penal Code added later on at Police Station Rohtak Sadar, District Rohtak on the basis of compromise dated 19.8.2023.

2. On 26.7.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.0016 dated 11.01.2022, registered for offences punishable under Sections 406 and 420 of IPC (Sections 467, 468, 471 and 120-B of IPC added later on), at Police Station Rohtak Sadfar, District

Rohtak 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/affidavit dated 28.06.2023 (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 the respondent No.1-State.

Mr. Gaurav Singla, Advocate has put in appearance 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 Illaqa Magistrate/trial Court on 18.08.2023.

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

3. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Rohtak dated 8.9.2023 has been received, which is taken

on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

(1) Number of persons arrayed as accused in the FIR.

There are three accused, namely, Shahid, Sohail and Tahir in this case out of which Shahid and Sohail are appearing before this court. Accused Tahir has not been arrested yet. Warrant of arrest against him has already been issued.

(ii) Whether any accused is Proclaimed offender?

No.

(iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Yes

(vi) Whether the accused persons are involved in any other case or not?

As per the statement of the Investigating Officer, one FIR No 05/2012 under sections 323, 341, 326 324, 336 IPC, Police Station Gopalgarh, District Bharatpur, Rajasthan is pending against accused Shahid. One FIR No. 158/2002 under sections 148, 149, 302, 452, 506 IPC, Police Station Pingla, District Nuh is pending against accused Sohail.

Complainant in this case is Krishan Kumar. The compromise entered into between the parties is genuine, voluntary and without any pressure/coercion. Copy of the statements so recorded, report of I.O and copies of relevant orders of Court are attached herewith for kind perusal.”

4. The aforesaid report reveals that there are three accused persons namely Shahid, Sohail and Tahir. However, the compromise has only been effected with accused -petitioner Shahid.

5. Mr. Krishan Daaria, Advocate for Mr. Gaurav Singla, 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. Similarly 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. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Sohail and Tahir and it is only Shahid who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Shahid only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as (2018) 12 SCC

391, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.0016 dated 11.1.2022, registered for the offence punishable under Sections 406/420 of the Indian Penal Code and Sections 467/468/471/120-B of the Indian Penal Code added later on at Police Station Rohtak Sadar, District Rohtak 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