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

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CRM-M-34879-2022 (O&M)

Date of decision : 20.07.2023

Pawan Kumar

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Manish Prabhaker, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ashish Sharma, Advocate for
Mr. Rajesh Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of FIR No.052 dated 29.05.2015, registered for offences punishable under Sections 420 and 120-B of IPC, at Police Station Division Kathu Nangal, Police District Amritsar Rural on the basis of compromise (Annexures P-1 and P-2).

2. On 30.11.2022, the following order was passed:-

“Prayer in the present petition is for quashing the FIR in question on the basis of compromise (Annexure P-2) arrived at between the parties.

Notice of motion.

Ms. Himani Arora, AAG, Punjab, accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

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At this stage, Mr. Rajesh Gupta, Advocate has put in appearance on behalf of respondent No.2. Complete copies of paper book be supplied to them during the course of the day.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 30 days, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether challan is presented in the Court? If so, against how many accused;
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iv) status/stage of the trial/case;
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 21.02.2023.”

3. Pursuant to the aforesaid order, report dated 16.02.2023 from JMIC, Amritsar has been received, which is taken on record. As per the

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report, the trial Court has recorded as follows:-

“xx xx xx

- i) As per the statement of the IO, there are four accused persons in the present FIR.
- ii) As per the statement of the IO, the challan has not yet been presented in the Court.
- iii) As per the statement of the IO, none of the accused is a proclaimed offender in the present case.
- iv) The stage of the present case is awaiting challan.
- v) After perusing the statements of the parties, this Court is satisfied that the compromise is genuine, voluntary and out of free will of the parties.”

4. The aforesaid report reveals that there are four accused persons namely Pawan Kumar, Jasbir Singh, Bikramjit Singh and Parminder Singh. However, the compromise has only been effected with accused-petitioner Pawan Kumar.

5. Mr. Ashish Sharma, Advocate for Mr. Rajesh Gupta, 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)**

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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

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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, Jasbir Singh, Bikramjit Singh and Parminder Singh and it is only Pawan Kumar who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Pawan Kumar 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

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'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.052 dated 29.05.2015, registered for offences punishable under Sections 420 and 120-B of IPC, at Police Station Division Kathu Nangal, Police District Amritsar Rural and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stand disposed off.

(PANKAJ JAIN)
JUDGE

20.07.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No