

236-2

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

**CRM-M-36808-2022
Date of decision : 03.11.2023**

Avtar Singh and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. M.K. Sharma, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Avtar S. Bhatti, Advocate for respondents No.2 to 10.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of DDR No.31 dated 07.04.2022 under Sections 326, 323, 148, 149 (later on offence under Section 326 IPC was deleted and offence under Section 341 IPC was added) in FIR No.03, dated 02.01.2022, under Sections 307, 323, 148, 149 of IPC read with Section 25/27 of Arms Act, registered at Police Station Tanda, District Hoshiarpur (later on offence under Section 307 IPC and offence under Section 25/27 were deleted and offence under Section 336 IPC was added) on the basis of compromise.

2. On 12.01.2023, the following order was passed :-

“Prayer in the present petition is for quashing of DDR No.31 dated 07.04.2022 under Sections 326, 323, 148, 149 (later on

offence under Section 326 IPC was deleted and offence under Section 341 IPC was added) in FIR No.03, dated 02.01.2022, under Sections 307, 323, 148, 149 of IPC read with Section 25/27 of Arms Act, registered at Police Station Tanda, District Hoshiarpur (later on offence under Section 307 IPC and offence under Section 25/27 were deleted and offence under Section 336 IPC was added) and all consequential proceedings arising therefrom on the basis of compromise dated 28.07.2022 (Annexure P-3) arrived at between the parties.

Status report by way of affidavit of Kulwant Singh, PPS, Deputy Superintendent of Police), Sub-Division Tanda, District Hoshiarpur, on behalf of respondent-State, is filed in Court today. The same is taken on record.

Learned counsel for respondents No.2 to 10 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 25.05.2023. ”

3. Pursuant to the aforesaid order, report from JMIC, Dasuya dated 24.05.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“After the perusal of statements of parties and I.O it is submitted as under:

- i) That as per the statement of I.O there are seven accused arrayed in the case namely Sandeep Singh, Avtar Singh, Mandeep Singh, Charanjit Singh, Jagdeep Singh, Hardeep Singh and Gurpreet Singh
- ii) That Challan is yet to be presented in the present case.
- iii) That as per the statement of I.O no accused has been declared as proclaimed offender.
- iv) That the case is still at investigation stage as challan is yet to be presented.
- v) All the parties except accused Hardeep Singh came for recording their statement and from the statement of parties, compromise appears to have been reached amicably between the appearing parties with the intervention of respectables of locality voluntarily without any coercion or undue influence.
- vi) That the statement of I.O with the regard to points no. (i), (ii), (iii) and (iv) has been recorded separately.”

4. Ld. Counsel appearing for respondents No. 2 to 10 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.31 dated 07.04.2022 under Sections 326, 323, 148, 149 (later on offence under Section 326 IPC was deleted and offence under Section 341 IPC was

added) in FIR No.03, dated 02.01.2022, under Sections 307, 323, 148, 149 of IPC read with Section 25/27 of Arms Act, registered at Police Station Tanda, District Hoshiarpur (later on offence under Section 307 IPC and offence under Section 25/27 were deleted and offence under Section 336 IPC was added) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

November 03, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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