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

**CRM-M-35416-2023
Date of decision : 21.11.2023**

JATIN KUMAR GAKHAR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Shruty Bhimwal, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Abhishek Satija, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0006 dated 08.01.2023, registered for offences punishable under Sections 353, 186, 332 and 333 of IPC at Police Station City 1 Abohar, District Fazilka (Annexure P-1) on the basis of compromise.

2. Counsel for the petitioner relies upon order dated 1st of May, 2013 passed in CRM-M-31765-2012 titled as Vinod @ Boda and others vs. State of Haryana and another to submit that the offence punishable under Section 186 IPC also can be quashed on the basis of compromise.

3. On 26.07.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction

of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.0006 dated 08.01.2023, registered for offences punishable under Sections 353, 186, 332 and 333 of IPC at Police Station City 1 Abohar, District Fazilka 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 22.06.2023 (Annexure P-2).

Notice of motion for 09.10.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of the respondent No.1-State.

Mr. Abhishek Satija, 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 28.08.2023. 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. ”

4. Pursuant to the aforesaid order, report from SDJM, Abohar dated 22.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“(I) As per statement of ASI Sarabjit Singh I.O., the present FIR was registered against only one accused i.e. Jatin Kumar Gakhar son of Bhim Kumar Gakhar.

(2) As per statement of I.O. of this case, accused Jatin Kumar Gakhar has not been declared as Proclaimed Offender in the present case.

(3) As per above statements of parties, compromise has been effected between petitioner and respondent No. 2. This compromise is acceptable to both the respective parties. Therefore, this compromise is genuine, voluntary and is without any coercion or undue influence.

(4) As per statement of I.O., no any other FIR is pending against above named accused.

(5) As per statement of I.O. of this case, Sukhwinder Singh son of Ranjit Singh (DSP), is the only complainant/victim in the present FIR.”

5. 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 petitioner are quashed.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. 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. Consequently, the petition is allowed. FIR No.0006 dated 08.01.2023, registered for offences punishable under Sections 353, 186, 332 and 333 of IPC at Police Station City 1 Abohar, District Fazilka

(Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed
qua the petitioner.

November 21, 2023
Dpr

(Pankaj Jain)
Judge

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