

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

CRM-M-37213 of 2023

DATE OF DECISION :- 05.10.2023

Gurcharan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. R.S. Sekhon, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Amandeep Saini, Advocate
for Mr. N.S. Dandiwal, Advocate for respondents.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.32 dated 26.5.2021, registered for the offence punishable under Section 379-B of the Indian Penal Code, Police Station Arif Ke, District Ferozepur, on the basis of compromise dated 21.7.2023 (Annexure P-2).

2. On 1.8.2023, 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.32 dated 26.05.2021, registered for offence punishable under Section 379-B of IPC, at Police Station Arif Ke, District Ferozepur and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioner contends that the matter already stands compromised vide panchayati compromise dated 21.07.2023 (Annexure P-2).

Notice of motion for 05.10.2023.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court

accepts notice on behalf of the respondent No.1-State.

Mr. N.S. Dandiwal, 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.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Ferozepur dated 27.9.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“As per statement of Investigating Officer ASI Ranjit Singh No.799/FZR, two accused namely Gurcharan Singh son of Balwant Singh, resident of Ward No. 4, Ranjit Nagar, Village Mudki, Tehsil & District Ferozepur and Lovejit Singh son of Nachattar Singh, resident of Valoor District Ferozepur P.S Kulgarhi have been arrayed as accused in the present FIR.

2.As per statement of Investigating Officer, none of the accused has been declared as Proclaimed Offender in the present case.

3.The compromise effected between the complainant and accused Gurcharan Singh seems to be genuine compromise and is a voluntary act of the parties without their being any sort of pressure or coercion from any corner.

4.As per statement of Investigating officer, as per their record, accused Lovejit Singh has involved in case bearing FIR No. 17 dated 15.02.2016 u/s 323/324/34 IPC P.S Kulgarhi, FIR No. 26 dated 03.03.2011 u/s 323/324/148/149 IPC P.S Cantt Ferozepur, FIR No. 12 dated 31.01.2014 u/s 15/61/85 NDPS Act PS Kulgarhi, FIR No. 42 under section 325/323/148/149 IPC PS City Ferozepur and at present he is in lodged in Central Jail Ferozepur FIR No. 12 dated 28.02.2017 u/s 323/324/148/149 IPC P.S Cantt Ferozepur since 24.08.2023.

5.As per statement of Investigating officer, there is one complainant i.e. Salwinder Singh son of Mela Singh, resident of Maira Wali Dakhli Changli Jadid P.S Mallanwala, District Ferozepur involved in the present FIR.”

4. Mr. Amandeep Saini, Advocate for Mr. N.S. Dandiwal, 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.

5. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard learned 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. FIR No.32 dated 26.5.2021, registered for the offence punishable under Section 379-B of the Indian Penal Code, Police Station Arif Ke, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

05.10.2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No