

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

259

CRM-M-37786-2020 (O&M)

Date of decision : 12.09.2023

Joga Singh and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sarfaraz Hussain, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0011 dated 23.03.2020, registered for offences punishable under Sections 353, 186, 188 and 509 of IPC, at Police Station Pojewal, District SBS Nagar on the basis of compromise dated 06.05.2020 (Annexure P-2).

2. On 08.03.2021, the following order was passed:-

“By this petition, the petitioners seek quashing of FIR no.0011, dated 23.03.2020, registered at Police Station Pojewal, District SBS Nagar, on the basis of a compromise stated to have been reached between the parties, alleging therein the commission of offences punishable under Sections 353, 186, 188, 509 of the IPC.

Pursuant to the order dated 17.11.2020, a report of the learned JMIC, Balachaur, dated 12.01.2021, has been received, stating therein that petitioner no.1 as also respondent no.2, i.e. the complainant, Prem Lata, stated before that court that they have entered into a

2023:PHHC:127315

compromise of their own free will and that as per the complainant, she did not actually receive any injury on her body.

It is further stated that as per the complainant, there was no accused except the petitioners Joga Singh and Lakhvir Singh, with the complainant being the person incharge of the Sub Centre of village Sahungra, with the petitioners having abused her and her team members.

Though petitioner no.2, Lakhvir Singh, is stated to have not made any statement before the learned Ilaqa Magistrate, learned counsel for the petitioners submits that that is because he is in Canada.

However, upon query to learned counsel for the complainant, he submits that though he has instructions with regard to the compromise having been reached between the parties, he has no instructions as to whether or not the complainant is agreeable that if the FIR may be quashed qua both the petitioners.

Adjourned to 20.04.2021.

He would take specific instructions in that regard.

An affidavit be filed by respondent no.2, stating very clearly therein that as to whether she has any objection to the FIR being quashed or not qua both the petitioners, and any other person who may be also involved qua the said occurrence.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners of like nature or otherwise.”

3. Pursuant to the aforesaid order, report dated 12.01.2021 from JMIC, Balachaur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

2023:PHHC:127315

In pursuance of the directions, both the parties i.e. complainant Prem Lata and accused Joga Singh have come present and suffered their statements voluntarily, without any pressure and out of free will regarding compromise effected between them with regard to the FIR no. 0011 of 23.03.2020 under sections 353, 186, 188 and 509 of Indian Penal Code, Police Station Pajewal, District Shaheed Bhagat Singh Nagar subsequently registered on the statement of complainant Prem Lata wife of Sukhjinder Kumar which was recorded accordingly.

As per the statement of complainant she did not receive any injury on her body. There is no other accused except the accused person namely Joga Singh and Lakhvir Singh in the present FIR. On the day of occurrence, complainant was the head/ incharge of the Sub Center of Village Sahungra and she along with her team members namely Jaswinder Kaur MPH, Harjinder Singh MPH were performing the duty to get aware the people about covid-19. Accused Joga Singh and Lakhvir Singh abused her and her above said team members. On the same day Sarpanch Raj Balwinder Singh was also accompanying them in order to recognize the villagers who came from abroad to their native village Sahungra.

With the intervention of respectables of locality and family members, complainant has compromised the dispute with the above named accused persons as per Annexure 'A' which bears the signature of complainant as well as the signatures of the members of complainant's team who were present at the time of occurrence. As per complainant's statement on behalf of which the FIR got registered in this case, two persons namely Joga Singh and Lakhvir Singh were involved and both of them are arrayed as an accused in the present case.

2023:PHHC:127315

As per Annexure-A, the parties suffered their statements voluntarily without any threat, coercion or undue influence and out of free will before court as they have compromised their dispute with the intervention of respectables. In the present case any accused is not proclaimed offender. Thus from the statements of accused Joga Singh who is the real brother of accused Lakhvir Singh and as well as Investigating Officer ASI Surinder Pal, accused Lakhvir Singh had gone to Canada but at the time of compromise Annexure-A, accused Lakhvir Singh put his signatures on the said compromise. As per statement of Investigating Officer ASI Surinder Pal, both the above named accused persons are neither involved in any other case except the present nor they were declared as proclaimed offender.

Undersigned has also questioned the complainant Prem Lata about the veracity of genuineness of compromise and the Undersigned is of the view that the compromise is genuine, voluntary and without any coercion and undue influence upon complainant. In the present case, no remand papers or any other proceeding is pending in this Court till date.”

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

5. I have heard learned counsel for the parties and have carefully gone through the records of the case.

6. 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

2023:PHHC:127315

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.

7. 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.

8. Consequently, the petition is allowed. FIR No.0011 dated 23.03.2020, registered for offences punishable under Sections 353, 186, 188 and 509 of IPC, at Police Station Pojewal, District SBS Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

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

(PANKAJ JAIN)
JUDGE

12.09.2023

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No