

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

CRM-M-38693-2022

Date of decision : 17.08.2023

GURPREET SINGH

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. J.S. Mahal, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. G.S. Randhawa, Advocate for respondents No.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.0222, dated 16.09.2021 registered for the offences punishable under Sections 336 IPC, 1860 and Sections 25, 27 of the Arms Act, 1959 at Police Station Sadar Amritsar, District Police Commissionerate Amritsar (Annexure P-1) on the basis of compromise.

2. On 17.01.2023, the following order was passed :-

“xxxx

Petitioner is seeking to quash FIR No. 222 dated 16.09.2021 under Section 336 IPC, Sections 25, 27 of Arms Act, registered at Police Station Sadar Amritsar, District Police Commissionerate, Amritsar on the basis of compromise.

Briefly, the FIR has been registered on the basis of the statement of respondent No.2 alleging that on 16.09.2021, the petitioner had given beatings to her and fired gun shot from his pistol in the air. Respondent No.3 is the husband of respondent No.2 who was attracted at the spot and in a fit of anger, the petitioner had also fired towards respondent No.3. Learned counsel

for the petitioner contends that the respondent No.2 and respondent No.3 are daughter and son-in-law, respectively of the petitioner. The dispute has been amicably settled between the parties in terms of the compromise, Annexure P-2. It is a case of 'no injury' much less firearm injury. The amicable settlement will help in maintaining cordial relations between the parties who are close relatives.

Notice of motion.

Ms. Ruchika Sabherwal, AAG Punjab accepts notice on behalf of the State.

Mr. Nitin Narula, Advocate appearing for Mr. G.S.Randhawa, Advocate has put in appearance on behalf of respondent Nos.2 and 3. He has filed his vakalanama and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 14.02.2023 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused in 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 Investigation Officer as to how many victims/complainants are there in the FIR.

Adjourned to 12.04.2023, to await the report. ”

3. Pursuant to the aforesaid order, report from ACJM, Amritsar dated 09.05.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. That as per statement of IO ASI Amar Singh, there is only

one person, named Gurpreet Singh, arrayed as accused in present FIR.

2. That as per statement of IO ASI Amar Singh, above-named accused has never been declared Proclaimed Offender, at any stage, in the proceedings of present matter.
3. That the compromise effected between complainant and accused, is genuine, voluntary, out of free will and without any coercion or undue influence.
4. That as per statement of IO ASI Amar Singh, accused Gurpreet Singh is not involved in any other case or criminal proceedings except the present one.
5. That as per statement of IO ASI Amar Singh, Harkirat Kaur is the complainant of present FIR and her husband/respondent No.3, Tegbir Singh, is an eye witness of the occurrence.”

4. Ld. Counsel appearing for respondents No.2 and 3 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. 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. FIR No.0222, dated 16.09.2021 registered for the offences punishable under Sections 336 IPC, 1860 and Sections 25, 27 of the Arms Act, 1959 at Police Station Sadar Amritsar, District Police Commissionerate Amritsar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

August 17, 2023
Dpr

(Pankaj Jain)
Judge

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