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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 11.10.2023

CRM-M-38578-2023

MOHD. ANWAR @ AMBU AND ORS.Petitioners

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CRM-M-38639-2023

ABDUL HAMID @ BHURA AND ORS.Petitioners

Versus

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gazi Mohd. Umair, Advocate
for the petitioners in CRM-M-38578-2023 and
for respondent No.2 in CRM-M-38639-2023.

Mr. Mohd. Yousaf, Advocate
for respondent Nos. 2 to 4 in CRM-M-38578-2023 and
for the petitioners in CRM-M-38639-2023.

Ms. Kanica Sachdeva, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

These are two petitions filed under Section 482 Cr.P.C. arising out of version and cross-version. The petitioners herein are praying for quashing of FIR No.06, dated 02.02.2016 registered for the offences punishable under Sections 307 (deleted later on), 323, 324, 148, 149 of the

Indian Penal Code and offence under Section 27 (deleted later on) of the Arms Act, and Section 201 of IPC added later on, at Police Station City-II, Malerkotla, District Malerkotla and cross-case DDR No.38, dated 02.02.2016 registered for the offences punishable under Sections 341, 323, 506, 148, 149 of the IPC, of the same Police Station along with all subsequent proceedings arising therefrom.

2. On 08.08.2023, the following order was passed :

The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of FIR No. 06 dated 02.02.2016 under Section 307(deleted later on), 323, 324,148,149 IPC and offence under Section 27 of Arms Act (Section 201 IPC was added later on) registered at Police Station City-I Malerkotla, District Malerkotla and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the parties are ad idem that it is a case of version and cross version. Initially it was registered for offence punishable under Section 307 IPC but the same now stands deleted. Even the offence punishable under Section 27 of the Arms Act also stands deleted.

Mr. Amit Shukla, AAG., Punjab on advance notice appears and does not dispute the aforesaid fact.

Learned Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 21.07.2023 (Annexure P-3).

Mr. Mohd. Yousaf, Advocate appears on behalf of the complainant-respondent No.2 to 4 in CRM-M-38578-2023 and Mr. Gazi Mohd. Umair, Advocate appears for respondent No.2 in CRM-M-38639-2023 and filed their Memo of Appearance and vakalatnama. The same is taken on record. They accept notice and admit the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Illaqa Magistrate on the next date of

hearing i.e. 14.08.2023. On their doing so, the learned Trial Court/Illaqa Magistrate 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 complaint.
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 complaint.

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 Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 11.10.2023.

A photocopy of this order be placed on file of other connected case.”

3. Pursuant to the aforesaid order, report from JMIC, Malerkotla dated 02.09.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. As per statement of Investigating Officer ASI Gurdeep Singh no.1434/Sangrur and as per record in hand, total five persons namely Mohd. Anwar @ Ambu, Mohd. Yasin @ Kala s/o Mohd. Ismail, Mohd. Iqbal @ Chiri, Mohd. Akram @ Soni and Mohd. Ashraf @ Kali arrayed as accused in the present FIR and in cross case total six persons namely Hazi Faqir (since

deceased), Mehmood Akhtar, Mohd. Jamil, Abdul Hamid @ Bhura, Mohd. Nazir and Mohd. Yasin s/o Mohd. Sadiq arrayed as accused.

2. As per statement of IO none of accused persons is declared proclaimed offender in the present FIR.

3 As per statements of both the parties, they have compromised the matter with the intervention of elders and relatives. As per their statements Court is satisfied that compromise effected between them is genuine, voluntarily and without any undue influence or coercion.

4. As per statement of IO, accused Hazi Faqir and Mehmood Akhtar were also involved in FIR no. 93 dated 20.11.2012 U/s 3007, 324, 323, 506, 34 IPC P.S. Sandaur. However, they have already been acquitted in the said FIR on 13.02.2015. Except them, none of the above named accused is involved in any other case.

5. As per statement of IO, there is only one complainant who is also victim namely Hazi Faqiria and three other victims namely Mohd. Jamil, Mohd. Yasin s/o Mohd. Sadiq and Mohd. Anwar. In cross case, there is only one complainant, who is also a victim namely Mohd. Anwar @ Ambu.

It is respectfully submitted that statement of Investigating officer ASI Narinder Kumar has been recorded with regard to points no.1, 2, 4 & 5.”

4. Since, it is a case of version and cross-version, the counsel who is representing the petitioners in one case, also represents the respondent(s) in cross-version case. Both counsels admit the fact of parties having compromised and state that they have no objection in case the FIR as well as DDR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR and DDR 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 matters do 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 petitions are allowed. FIR No.06, dated 02.02.2016 registered for the offences punishable under Sections 307 (deleted later on), 323, 324, 148, 149 of the Indian Penal Code and offence under Section 27 (deleted later on) of the Arms Act, and Section 201 of IPC added later on, at Police Station City-II, Malerkotla, District Malerkotla and cross-case DDR No.38 dated 02.02.2016 registered for the offences punishable under Sections 341, 323, 506, 148, 149 of the IPC of the same Police Station and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.
10. A copy of this order be kept on the file of other connected case.

October 11, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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