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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38613-2023
Date of decision : 04.10.2023

ARUN KUMAR AND ANOTHERPetitioners

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Manbir S. Batth, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Arhaan Gagneja, Advocate for
Ms. Prabhnoor K. Bains, Advocate for respondents No.2 to 4.

PANKAJ JAIN, J. (ORAL)

Prayer is for quashing of FIR No.0061, dated 2nd of April, 2021, registered for offences punishable under Section 406, 420, 120-B IPC, at Police Station City Nawanshahr, District SBS Nagar (Annexure P-1), and all proceedings subsequent thereto including judgment of conviction dated 3rd of January, 2023 passed by Ld. Chief Judicial Magistrate, SBS Nagar (Annexure P-2) whereby the petitioners stand convicted for offence punishable under Section 420/120-B IPC.

2. Ld. Counsel for the petitioners relies upon the judgment passed by Apex Court in the case of **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), to contend that this Court while exercising jurisdiction under Section 482 Cr.P.C. can quash the FIR and criminal proceedings even at the stage of post-conviction when appeal is pending.

5. In the case **Ram Gopal and another vs. State of Madhya Pradesh** (supra) Apex Court held as under :

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

2. While issuing notice of motion on 8th of August, 2023 following order was passed :

“Through this petition, the petitioners seek quashing of FIR No.61 dated 02.04.2021, registered under Sections 406, 420, 120-B IPC, at Police Station City Nawanshahr, District SBS Nagar, along with all the subsequent proceedings arising therefrom, including the judgment of conviction dated 03.01.2023 passed by learned Chief Judicial Magistrate, SBS Nagar, on the basis of compromise dated 22.07.2023 (Annexure P-5).

Learned counsel for the petitioners submits that, vide judgment of conviction dated 03.01.2023 passed by Court below, the petitioners along with others have been convicted for the offence punishable under Sections 420 and 120-B IPC and sentenced to undergo rigorous imprisonment for a maximum period of 3 years and to pay fine, along with the default clause and that since all the accused have been convicted for the main offence i.e. Section 420 IPC, they were not convicted under Section 406 IPC. He further submits that the both the petitioners preferred separate appeals against the said judgment, which are pending adjudication before the learned Sessions Court. Still further, it is submitted that during the pendency of the appeals and with the intervention of respectables, the compromise has been effected between the parties and they have decided to bury the hatchet enabling them to live with peace and harmony and that the FIR can be quashed on the basis of compromise, even after the conviction.

In support of his contentions, learned counsel for the petitioners relies upon the judgment dated 29.09.2021 passed by the Hon'ble Supreme Court in Criminal Appeal No.1489-2012 titled as Ramgopal and another vs The State of Madhya Pradesh and judgment dated 09.04.2013 passed by a Coordinate Bench of this Court in Sube Singh and another vs State of Haryana and another, 2013 (4) RCR (Criminal) 102.

Learned counsel for the petitioners further submits that, though, there are total six accused in the present case, yet the fact remains that the compromise has been effected between the petitioners and respondents No.2 to 4 only and thus, the FIR be quashed qua the petitioners only. In support of his this contention, learned counsel for the petitioners relies upon the order dated 20.07.2012 passed by the Hon'ble Supreme Court in Jayrajsinh Digvijaysinh Rana vs State of Gujarat and another, 2012 (4) RCR (Criminal) 589.

Notice of motion.

On the asking of this Court, Mr. CL Pawar, Additional AG Punjab, accepts notice on behalf of respondent No.1-State.

Ms. Prabhnor K. Bains, Advocate appears and files memo of appearance on behalf of respondents No.2 to 4 and does not dispute the factum of the compromise.

In view of the above, the parties are directed to appear before the Illaqa Magistrate/trial Court on 28.08.2023 or any other date convenient to the Court concerned for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1 *The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2 *the name of the complainant and*

injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. *the stage of trial/proceedings;*

4. *If the compromise is genuine, voluntary and out of free will of the parties;*

Report of the Illaqa Magistrate/trial Court be awaited for 04.10.2023.

3. Pursuant to the aforesaid order, report from CJM, SBS Nagar, dated 25th of September, 2023 has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“a) that as per the statement of the IO/ASI Baljinder Kumiar, there are total 07 accused namely Ravindera Singh, Manjinder Singh Cheema, Khazan Singh, Gurdeep Singh, Kanwaljeet Singh Ball, Arun Kumar and Mangat Ram have been arrayed as accused in the present case; 06 accused have appeared in the FIR; two accused namely Arun Kumar and Gurdeep Singh have suffered the statements; and that accused Mangat Ram is proclaimed person:

b) that as per the statement of the IO/ASI Baljinder Kumar, there are four complainants/aggrieved persons namely Amarjeet Singh, Darshan Lal (since deceased). Mohinder Pal and Krishan Kumar in this case. The complainants/ aggrieved persons namely Amarjeet Singh, Mohinder Pal and Krishan Kumar have suffered their joint statement regarding compromise;

c) that the present case has been decided resulting in conviction of the accused, vide judgment dated 03.01.2023 passed by this Court and the appeal against this judgment is pending before the Court of learned Sessions Judge, SBS Nagar;

and

d) that on the basis of statements suffered before this Court by the parties, this Court is of the considered view that the compromise entered between the parties i.e. the complainants Amarjeet Singh, Mohinder Pal and Krishan Kumar and accused persons namely Arun Kumar and Gurdeep Singh is genuine, voluntary and without any coercion or undue influence. The compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties.”

4. The aforesaid report reveals that there are seven accused persons namely Ravinder Singh, Manjinder Singh Cheema, Khazan Singh, Gurdeep Singh, Kanwaljeet Singh Ball, Arun Kumar and Mangat Ram. However, the compromise has only been effected with accused-petitioners namely Gurdeep Singh and Arun Kumar.

5. Ld. Counsel appearing for private respondents 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 present petitioners are quashed.

6. Ld. State Counsel though admits the factum of compromise *qua* parties to the *lis* however submits that only two out of seven accused persons nominated in the FIR, have come forward seeking quashing on the basis of compromise.

7. I have heard Ld. Counsel for the parties and have carefully

gone through the records of the case.

10. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Ravinder Singh, Manjinder Singh Cheema, Khazan Singh, Kanwaljeet Singh Ball and Mangat Ram and it is only Gurdeep Singh and Arun Kumar who have approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Gurdeep Singh and Arun Kumar only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

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) Complainants/victims have entered into compromise on their own volition.
- (vi) Though the petitioners already stand convicted yet in view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.

10. Consequently, the present petition is allowed. FIR No.0061,

dated 2nd of April, 2021, registered for offences punishable under Section 406, 420, 120-B IPC, at Police Station City Nawanshahr, District SBS Nagar (Annexure P-1), and all proceedings subsequent thereto including judgment of conviction dated 3rd of January, 2023 passed by Ld. Chief Judicial Magistrate, SBS Nagar (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners namely Gurdeep Singh and Arun Kumar, only.

October 04, 2023
Dpr

(Pankaj Jain)
Judge

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