

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

290

CRM-M-38879-2023

Date of decision : 16.10.2023

Harmander Singh Demru

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajesh Bhatheja, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. Sandeep Sharma, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.11 dated 10.01.2023, registered for the offences punishable under Sections 186, 353, 506 and 34 of IPC at Police Station Baghapurana, District Moga on the basis of panchayati compromise dated 04.07.2023 (Annexure P-2).

2. Counsel for the petitioner relies on CRM-M-31765-2012 dated 01.05.2013 to submit that offence punishable under Section 186 can also be quashed recognizing the compromise between the accused and the complainant in exercise of the jurisdiction vested under Section 482 Cr.P.C. The magnitude of inherent jurisdiction exercisable by the High Court with a view to prevent the abuse of law or to secure the ends of justice, is wide enough to include its power to quash the proceedings in relation to the non-compoundable offences including the ones involved in

2023:PHHC:138597

the present case notwithstanding the bar under Section 320 CrPC. Such a power, in our considered view, is exercisable by the High Court in all those circumstances where the conclusion of trial would ultimately result into futility. Same is the view held by Coordinate Benches in CRM-M-6597-2018 dated 08.08.2018 and CRM-M-19665-2017 dated 24.07.2017.

3. On 09.08.2023, the following order was passed:-

The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.11, dated 10.01.2023, registered for offences punishable under Sections 186, 353, 506, 34 of the Indian Penal Code, 1860 at Police Station Baghapurana, District Moga and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 16.10.2023.

On the asking of the Court, Mr. Amit Shukla, AAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Sandeep Sharma, Advocate appears and accepts notice on behalf of respondent No.2 and admits 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/Duty Magistrate on 31.08.2023. On their doing so, the learned Trial Court/Duty 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 FIR

2023:PHHC:138597

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

4. Pursuant to the aforesaid order, report dated 28.09.2023 from SDJM, Baghapurana has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. In his statement, respondent/complainant S.Ct. Gurtej Singh stated that on his initiation, FIR No. 11 dated 10.01.2023 under Sections 186,353,506,34 IPC was registered at police station Baghapurana against accused-petitioner Harmander Singh son of Makhan Singh, resident of Village Demru Kalan, Tehsil Baghapurana. That now with the intervention of respectables of the society, the complainant has compromised the matter with the above said accused person. Only Harmander Singh Demru has been arrayed as an accused in the present FIR. The compromise is genuine, voluntarily and without any coercion or undue influence. He has no objection, if the present FIR is quashed.

2023:PHHC:138597

2. That in his statement, accused Harmander Singh Demru stated that on the initiation of complainant-respondent S.Ct. Gurtej Singh, present FIR was registered against him and he has compromised the matter with the complainant which is genuine, voluntarily and without any coercion or undue influence. Two FIRs have been pending against him. He has fulfilled all the conditions of the compromise. He has not been declared as proclaimed offender by any Court in any case so far.

3. That as per statement of ASI Binderpal Kaur, investigating officer, there is only one accused namely Harmander Singh Demru in the present FIR. He has not been declared as proclaimed offender. Accused is involved in one another FIR no. 70/2019, under Section 341,188,186, 120-B IPC, P.S. Smalsar. There is only one complainant/victim i.e. S.Ct. Gurtej Singh in the present FIR.”

5. Mr. Sandeep Sharma, 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.

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

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

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

2023:PHHC:138597

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) Complainant/victim has entered into compromise on his own volition.

10. Consequently, the petition is allowed. FIR No.11 dated 10.01.2023, registered for the offences punishable under Sections 186, 353, 506 and 34 of IPC at Police Station Baghapurana, District Moga and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

16.10.2023
Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No