

CRM-M-38664-2023
CRM-M-38787-2023

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2023:PHHC:133398

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

Date of decision : 11.10.2023

CRM-M-38664-2023

BALVIR SINGH AND ANOTHER

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CRM-M-38787-2023

BHUPINDER SINGH AND ORS.

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Parteek Pandit, Advocate
for the petitioners in CRM-M-38664-2023 and
for respondent No.2 in CRM-M-38787-2023.

Mr. Barjinder Singh, Advocate
for the petitioners in CRM-M-38787-2023 and
for respondent No.2 in CRM-M-38664-2023.

Mr. Kunal Vinayak, 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.120, dated 10.05.2023 registered for the offences punishable under Sections 323, 324, 326, 341, 34 and 295 IPC (Section 326

was added later on) of the Indian Penal Code, at Police Station Kotwali Kapurthala, Distt. Kapurthala, and cross-case Rapat No.25, dated 15.05.2023 registered for the offences punishable under Sections 323, 341, 506, 295, 34, 325 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. 120 dated 10.05.2023 under Section 323, 324, 326, 341, 34 and 295 IPC (Section 326 was added later on) registered at Police Station Kotwali Kapurthala, District Kapurthala 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 and the matter already stands compromised vide Compromise Deed dated 08.07.2023 (Annexure P-2).

Notice of motion.

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

Mr. Prateek Pandit, Advocate appears on behalf of respondent No. 2-complainant in CRM-M-38787-2023. Mr. Barjinder Singh, Advocate appears on behalf of respondent No.2 in CRM-M-38664-2023. They have filed their Vakalatnama. The same are taken on record. They accept notice on behalf of the aforementioned respondents 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/Illaq Magistrate on 31.08.2023. On their doing so, the learned Trial Court/Illaq 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, Kapurthala dated 04.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. It is respectfully submitted the FIR was registered against Balvir Singh s/o Sadhu Singh and Labh Singh s/o Sohan Lal both residents of village Parvez Nagar, PS Kotwali, Kapurthala and the cross-case was registered against Bhupinder Singh s/o Joginder Singh, Harjit Singh s/o Joginder Singh and Sarwan Singh s/o Joginder Singh all residents of village Parvez Nagar, PS Kotwali, Kapurthala.

2. It is respectfully submitted that as per the statement of IO no accused has been declared proclaimed offender in the FIR

and the cross-case.

3. It is respectfully submitted that from the statements of both the parties it appears that the compromise arrived between the parties is genuine, voluntarily and without any coercion or undue influence.

4. It is respectfully submitted that from the statements of the IO, it can be seen that, as per the record of PS Kotwali, Kapurthala, no other FIR is registered against he accused in the FIR and the cross-case.

5. It is respectfully submitted that as per the statement of the IO, there is one injured i.e. complainant Bhupinder Singh s/o Joginder Singh in the FIR and one injured i.e. complainant Balvir Singh s/o Sadhu Singh in the cross-case. ”

4. Since, it is a case of version and cross-version, the counsel who is representing the petitioners in one case, also represents the private respondent 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 Rapat and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR and Rapat 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.120, dated 10.05.2023 registered for the offences punishable under Sections 323, 324, 326, 341, 34 and 295 IPC (Section 326 was added later on) of the Indian Penal Code, at Police Station Kotwali Kapurthala, Distt. Kapurthala, and cross-case Rapat No.25, dated 15.05.2023 registered for the offences punishable under Sections 323, 341, 506, 295, 34, 325 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