

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

CRM-M-35392 of 2019

DATE OF DECISION :- 03.10.2023

Mayank Anupam

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rakesh Dhiman, Advocate for respondent No. 2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.241 dated 8.8.2014, registered for the offence punishable under Sections 323/506/379/34 of the Indian Penal Code, Police Station DLF Phase, I, District Gurgaon, on the basis of compromise dated 20.12.2022 (Annexure P-2).

2. On 1.6.2022, the following order was passed:-

“The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.241 dated 8.8.2014 registered under Sections 323, 506, 379, 34 IPC at Police Station DLF Phase-I, District Gurgaon on the basis of compromise (Annexure P-2). Mr. Ashwani Gaur, Advocate, appearing on behalf of complainant/respondents No.2 has admitted the correctness of compromise (Annexure P-2) and stated that he has no objection if this petition is allowed.

Learned State counsel submits that he does not wish to file any reply as the parties are stated to have effected the compromise. So, the parties are directed to appear before the learned trial court/Illaqa Magistrate on 2.7.2022 or any other date convenient to the trial Court/Illaqa Magistrate and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaqa Magistrate, is directed to send the same along with his report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

To come up on 17.11.2022 for awaiting the report.

A copy of this order be sent to the learned trial Court/Illaqa Magistrate, through electronic mode, for compliance.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Gurugram dated 28.12.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1.The complainant had alleged in the FIR that three persons had assaulted him. However, the Final Report/Challan was filed only against accused Mayank Anupam. He has appeared in the Court and made statement.

2.None of the accused is absconding or has been declared proclaimed person/offender in this case.

3.The case is listed before the undersigned as pending at the stage of prosecution evidence.

4.In the above matter both the parties appeared. The complainant and accused suffered separate statements that a voluntary compromise has been arrived amongst the parties.

The complainant has stated that a sum of Rs. 1,00,000/- was received by him from the accused by way of demand draft no. 366844 (copy Mark A) dated 19.12.2022 drawn on SBI, New Delhi and a sum of Rs. 1,50,000/- is received in cash in Court on 20.12.2022 i.e. today. The complainant stated that he has no objection if FIR against the accused is quashed. Simultaneously, accused suffered a statement that he has made the aforesaid payment to complainant and prayed for quashing of FIR. Upon perusal of the statements recorded in court on behalf of both the parties and upon oral inquiry from the parties, this court is of considered and confirmed view that compromise stated to be effected between the parties is genuine, voluntary and out of free will, without any pressure or influence from any side.

The above report, in compliance of Order of Hon'ble Punjab & Haryana High Court, is hereby submitted for your kind information.”

4. Mr. Rakesh Dhiman, 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.

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

6. I have heard learned 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.241 dated 8.8.2014, registered for the offence punishable under Sections 323/506/379/34 of the Indian Penal Code, Police Station DLF Phase, I, District Gurgaon and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

03.10.2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No