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

CRM-M-40257-2023
Date of decision : 02.11.2023

MOHANPetitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Anurag Arora, Advocate for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Puneet Bali, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

The petitioner herein is seeking quashing of FIR No.118, dated 21.04.2015 registered for the offences punishable under Sections 307, 506 of the Indian Penal Code, 1860, at Police Station Sector-56, District Gurgaon (Annexure P-1) and all proceedings subsequent thereto including the judgment of conviction dated 03.07.2017, on the basis of compromise.

2. The petitioner stands convicted for the offence punishable under Sections 324 IPC and has been sentenced to undergo 2 years RI and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo simple imprisonment for six month.

3. Ld. Counsel for the petitioner relies upon Para No.13 of 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), wherein it has been held that :-

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice....”

4. Reply by way of an affidavit of Kapil Ahlawat, HPS, Assistant Commissioner of Police, Sadar, Gurugram has been filed on behalf of respondent No.1 today in Court. The same is taken on record.

5. On 17.08.2023, 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 the FIR bearing No.118 dated 21.04.2015 for the offences punishable under Sections 307, 506 IPC, 1860 and all subsequent proceedings arising thereto on the basis of

compromise.

The petitioner prays for quashing of the FIR bearing No.118 dated 21.04.2015 post conviction. The petitioner stands convicted for offences punishable under Section 324 IPC vide judgment dated 03.07.2017 against which CRA-S-829-SB-2017 preferred by the petitioner stands admitted. He relies upon the judgment passed in **Ram Gopal and another Vs. State of Madhya Pradesh 2021 (4) RCR (Cri.) 322** to submit that even post-conviction the matter having been compromised, this Court is competent to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR.

Learned Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 24.07.2023 (Annexure P-2).

Notice of motion.

Mr. Gaurav Bansal, DAG, Haryana. appears and accepts notice on behalf of respondent No. 1-State.

Mr. Puneet Bali, Advocate appears on behalf of the complainant. He has filed his Vakalatnama. The same is taken on record. He accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

The parties are directed to appear before learned Trial Court/Illaq Magistrate on 04.09.2023. On their doing so, the learned JMIC, Gurugrama shall record their statements with respect to the Cross case which is subject matter of the present case 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 JMIC, Gurugram shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 02.11.2023.”

6. Pursuant to the aforesaid order, report from JMIC, Gurugram dated 04.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “i) One accused Mohan has appeared before the court and made his statement.
- ii) The accused Mohan has not been declared proclaimed person.
- iii) The compromise is genuine voluntary and out of free will of the parties.
- iv) No other case is pending against the accused Mohan.
- v) There is one Complainant only namely Sh. Rishi Raj, as stated by the Investigating Officer.”

7. Ld. Counsel appearing for respondent No.2 admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto including the judgment of conviction/order of sentence, against the petitioner.

8. Similarly Ld. State Counsel has stated no objection in case the FIR and judgment of conviction are quashed based upon the compromise.

9. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

10. 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.

10. 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.
- (vi) Though the petitioner already stands 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.

11. Consequently, the present petition is allowed. FIR No.118, dated 21.04.2015 registered for the offences punishable under Sections 307, 506 of the Indian Penal Code, 1860, at Police Station Sector-56, District Gurgaon (Annexure P-1) and all proceedings subsequent thereto including the judgment of conviction/order of sentence dated 3rd/4th of July, 2017 passed by Sessions Judge, Gurugram, are, hereby, quashed *qua* the petitioner.

November 02, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No