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

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CRM-M-39838-2023

Date of decision : 31.10.2023

Zaheer and others**..... Petitioners****versus****State of Haryana and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Pranshul Dhull, Advocate and
Ms. Shrdha Aneja, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Kamal Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. Reply by way of affidavit of Naveen Sharma, HPS, Assistant Commissioner of Police, Palam Vihar, Gurugram has been filed on behalf of respondent No.1-State. The same is taken on record.

2. By way of present petition, the petitioners are seeking quashing of FIR No.0350 dated 03.09.2022, registered for the offences punishable under Sections 323, 452, 506 and 34 of IPC at Police Station Sector-9A, District Gurugram on the basis of compromise deed dated 22.05.2023 (Annexure P-3).

3. On 16.08.2023, 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.0350 dated 03.09.2022 for the offences punishable under

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Sections 323, 452, 506 read with Section 34 IPC, 1860 and all subsequent proceedings arising thereto on the basis of compromise.

Learned Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 22.05.2023 (Annexure P-3).

Notice of motion.

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

Mr. Kamal Gupta, Advocate appears and 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 31.08.2023. On their doing so, the learned Trial Court/Illaq Magistrate 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.

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Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Trial Court/Illaqa Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 31.10.2023.”

4. Pursuant to the aforesaid order, report dated 02.09.2023 from Principal Magistrate, Juvenile Justice Board, Gurugram has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

It is submitted that undersigned has recorded the statements of respective parties pertaining to compromise which has been arrived between the parties to the litigation. Further, it is submitted that statements of the parties recorded by the undersigned is genuine, voluntarily and without any coercion or undue influence. Further, there is only one Child-in-conflict with law namely Mxxx Txxxxx who is facing inquiry before this Board. Further, no accused/juvenile has been declared a proclaimed offender in the case. Further, as per the statement of the Investigating Officer, there is no other criminal case pending against the Child-in-conflict with law except the present one and further, there is only one complainant/victim namely Lalan Kumar in the present case.”

5. Mr. Kamal Gupta, 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 petitioners 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

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

10. Consequently, the petition is allowed. FIR No.0350 dated 03.09.2022, registered for the offences punishable under Sections 323,

452, 506 and 34 of IPC at Police Station Sector-9A, District Gurugram and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

31.10.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No