

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

279

CRM-M-41931-2020

Date of decision : 18.08.2023

NITIN KUMAR ABBI AND ANR

....PETITIONERS

Versus

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Nimanyu Gautam, Advocate for the petitioners.

Mr. Kunal Viyanak, AAG, Punjab.

Mr. Vikramvir Sharda, Advocate for
Mr. Rohit Kumar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.162, dated 27.07.2019, registered for the offences punishable under Section 341, 323, 427, 34 IPC and Section 3 of PDPP Act, 1984 at Police Station Goraya, Jalandhar (Annexure P-1) on the basis of compromise.

2. On 24.05.2023, the following order was passed :-

“Prayer in this petition under Section 482 Cr.P.C. is for quashing of FIR No.162, dated 27.07.2019, under Sections 341, 323, 427, 34 IPC and Section 3 of PDPP Act, 1984, registered at Police Station Goraya, Jalandhar alongwith all the subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-1).

Mr. Rohit Kumar, Advocate accepts notice on behalf of respondent No.2 and filed memo of appearance. The same is taken on record. Be tagged at appropriate place. He acknowledged the factum of compromise arrived at between the parties.

Adjourned to 18.08.2023.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court on 18.07.2023 or any other date convenient to the court, which, shall record their statements and send a report to this Court as to whether the compromise is genuine, without any pressure or undue influence and also whether any accused was declared as proclaimed offender, before the next date of hearing. ”

3. Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Phillaur dated 08.08.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“From the statement of parties, the undersigned is satisfied that the compromise has been effected between the respondent/complainant and accused/petitioner is voluntarily and genuine and same is without any pressure or coercion. There are only four persons arrayed as accused. Satish Kumar and Kuldeep Kumar was declared innocent and no other accused was declared proclaimed offender in the present case. There is no other case/FIR filed against these accused.”

4. 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 against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR 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 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.162, dated 27.07.2019, registered for the offences punishable under Section 341, 323, 427, 34 IPC and Section 3 of PDPP Act, 1984 at Police Station Goraya, Jalandhar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

18.08.2023
pry

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No