

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

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CRM-M-41248-2023

Date of decision : 08.11.2023

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

Present: Mr. Jagjit Singh Gill, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Amritpal Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0398 dated 10.08.2021, registered for offences punishable under Sections 323, 34 and 506 of IPC, 1860 (Sections 325 and 452 of IPC, 1860 added later on), at Police Station Sirsa City, District Sirsa on the basis of compromise dated 18.07.2023 (Annexure P-2).

2. On 21.08.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.0398 dated 10.08.2021, registered for offences punishable under Sections 323, 34 and 506 of IPC, 1860 (Sections 325 and 452 of IPC, 1860 added later on), at Police Station Sirsa City, District Sirsa and all subsequent proceedings arising thereto on the basis of compromise.

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Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 18.07.2023 (Annexure P-2).

Notice of motion for **08.11.2023**.

Mr. Gaurav Bansal, DAG, Haryana, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. G.S. Aulakh, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **04.09.2023**.

On their doing so, the learned Illaqa Magistrate/trial Court 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 FIR.
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 FIR.

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

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learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3. Pursuant to the aforesaid order, report dated 20.09.2023 from JMIC, Sirsa has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Complainant namely Tinku Ram son of Sahil Ram, resident of Sirsa has got recorded his statement separately to the effect that the matter has been compromised with accused with his free consent in case FIR No.398 dt. 10.08.2021. He also deposed that has has no objection if aforesaid FIR is quashed against accused.

Accused Sajan son of Suraj and Suraj son of Kashi Ram, both the residents of Sirsa have made joint statement to the effect that the matter has been compromised with complainant. They also deposed that except the present case there are no other case is pending against them not they are convicted in any other case. They requested to quash the aforesaid FIR.

Statement of Investigation Officer ASI Subhash Chander No.413. P.S. Rori is recorded to the effect that except the present case there are no other case is pending against both accused. He also stated that accused were never declared proclaimed offender nor any proceeding was initiated against them. He also stated that the petitioner is not involved in any other case.

Both the parties were duly identified by their respective lawyers.

Besides recording the statements of the parties, the Court has also duly enquired about the compromise

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between two sides independently from the complainant and accused as well as their counsels. Both the counsels representing the parties have also stated that the matter has been compromised between the parties with their free consent and there is no ill will between them. So, after perusal of statements of the parties and after enquiring from the parties independently as well as their counsels, the Court is of the opinion that the compromise arrived between the parties is genuine and voluntarily made, without any undue influence, coercion threat on pressure.

Accused namely Suraj & Sajan are the only persons who have been arrayed as accused in FIR. No other person except above-mentioned are nominated as accused in present case. The final report under Section 173 Cr.P.C. is filed only against Sajan & Suraj. Accused are not involved in any other case. No accused has been declared proclaimed offender.”

4. Mr. Amritpal Singh, 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.

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

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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.0398 dated 10.08.2021, registered for offences punishable under Sections 323, 34 and 506 of IPC, 1860 (Sections 325 and 452 of IPC, 1860 added later on), at Police Station Sirsa City, District Sirsa and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

08.11.2023

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Whether speaking/reasoned

Yes

Whether Reportable :

No