

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

265/2

CRM-M-43074-2022

Date of decision : 18.07.2023

Chandan @ Chintu

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. N.C. Kinra, Advocate for
respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of FIR No.81 dated 06.07.2022, registered for offence punishable under Section 379-B of IPC (Sections 120-B and 411 of IPC added later on), at Police Station Division No.3, Police Commissionerate, Jalandhar on the basis of compromise deed dated 05.09.2022 (Annexure P-2).

2. On 13.12.2022, the following order was passed:-

“This petition is for quashing of FIR No.81 dated 06.07.2022, registered at Police Station Division No.3, Police Commissionerate Jalandhar, under Section 379-B IPC and Sections 120-B and 411 IPC (added later on), along with all the subsequent proceedings arising therefrom, on the basis of compromise deed dated 05.09.2022 (Annexure P-2).

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Learned counsel for the petitioner submits that with the intervention of the respectable persons of the area, the matter has been compromised between the parties. He further submits that in CRM-M-32326-2022 filed by a co-accused for quashing of the present FIR, the parties have already been relegated to record their statements qua the compromise before the learned Illaqa Magistrate/trial Court.

Notice of motion.

On the asking of this Court, Mr. Gurlal Singh Dhillon, AAG Punjab, accepts notice on behalf of the respondent-State.

At this stage, Mr. N.C. Kinra, Advocate, appears and files his power of attorney on behalf of respondent No. 2, and does not dispute the factum of the compromise. The power of attorney is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 10.01.2023 or any other date convenient to the concerned Court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;
2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;
3. the stage of trial/proceedings;

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4. If the compromise is genuine, voluntary and out of free will of the parties;

Report of the Illaqa Magistrate/trial Court be awaited for 01.03.2023.”

3. Pursuant to the aforesaid order, report dated 09.12.2023 from ACJM, Jalandhar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1) **Number of persons arrayed as accused, how many have appeared before it and have made statements and whether any accused is absconding/proclaimed offender:-** As per statement ASI Ajay Pal Singh No 196, FIR was registered against one unknown person. However, during investigation, accused Manish Gupta and Chintu were nominated as accused. Petitioner/accused Chandan @ Chintu has appeared in this court and got recorded his statement.

However, perusal of the record reveals that earlier also, this court has already recorded the statements of parties as per the directions passed by the Hon'ble High Court vide order dated 27.07.2022 passed in CRM-M-32326 of 2022 filed by petitioner/accused Manish Gupta and report regarding compromise has already been sent vide letter No. 4690 G dated 31.08.2022 of this court, through learned District & Sessions Judge, Jalandhar.

As per statement of ASI Ajay Pal Singh, none of the accused has been absconding or declared proclaimed offender.

2) **The name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of**

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the compromise:- As per the statement of ASI Ajay Pal Singh, there is only one complainant/victim namely Pankaj Matta, who has come present in the court and got recorded his statement regarding the compromise with the petitioner/accused Chandan @ Chintu, who was nominated during investigation.

3) **The stage of trial/proceedings:-** As per remand papers, proceedings are being adjourned for awaiting challan. As intimated by ASI Ajay Pal Singh investigation has been completed, but police report was yet to be presented.

4) **If the compromise is genuine, voluntary & out of free will of the parties:-** Having recorded the statements of parties, this court is of the considered opinion that compromise appears to be genuine, voluntarily & without any coercion or undue Influence.”

4. Mr. N.C. Kinra, 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.

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- (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.81 dated 06.07.2022, registered for offence punishable under Section 379-B of IPC (Sections 120-B and 411 of IPC added later on), at Police Station Division No.3, Police Commissionerate, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

18.07.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No