

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40906-2023

Date of decision: 06.11.2023

Jaswinder Singh @ Chhinder Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Satyam Khichi, Advocate for
Mr. Hardeep Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Bikram Chaudhary, Advocate
for respondent Nos.2 & 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.65, dated 07.10.2021 (Annexure P-1) registered for the offences punishable under Sections 452, 323, 148, 149 IPC at Police Station Talwandi Bhai, District Ferozepur on the basis of compromise (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. by the petitioner seeking quashing of FIR No.65, dated 07.10.2021, registered for offences punishable under Sections 452, 323, 148, 149 of the Indian Penal Code, 1860 at Police Station Talwandi Bhai, District Ferozepur, and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 06.11.2023.

Mr. Amit Shukla, AAG, Punjab appears and accepts notice on behalf of respondent No. 1-State.

Mr. Bikram Chaudhary, Advocate appears and accepts notice on behalf of respondents No.2 and 3 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Illaq Magistrate/Duty Magistrate on

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14.09.2023. On their doing so, the learned Trial Court/Illaq Magistrate/Duty Magistrate 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/Illaq Magistrate/Duty Magistrate 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 learned Trial Court/Illaq Magistrate/Duty Magistrate 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 30.09.2023 from Judicial Magistrate Ist Class, Ferozepur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1. As per the statements of the parties and investigating Officer ASI Major Singh there are four accused **namely (1) Jaswinder Singh @ Chhinder Singh, aged 45 years son fo Mohan Singh, (2) Bhupinder Singh alias Bhinder Singh, aged 49 years son of Mohan Singh, both residents of villlage Mahianwala Khurd, Mehar Singh Wala, District Ferozepur, (3) Jaswant Kaur, aged 55 years wife of Sukhdev Singh, and (4) Jagatar Singh, aged 55 years son of Sadhu Singh, both the residents of village Karmitti, Talwandi Bhai, District Ferozepur arrayed as accused in the present FIR.**
2. None of the above mentioned accused is **Absconding/Proclaimed Offender** in the present case.
3. The compromise effected between the complainant **Mohan Singh, victim Satnam Singh and accused Jaswinder Singh alias Chhinder Singh, Bhupinder Singh alias Bhinder Singh, Jaswant Kaur and Jagatar Singh** is a voluntary act of the parties without their being any coercion or undue influence and seems to be genuine compromise.
4. The above said persons are not involved in any other case.
5. As per the statement of Investigating Officer namely ASI Major Singh, **Mohan Singh is complainant, Satnam Singh** is victim in the present case and no other person is victim/complainant in the present case.

4. Learned counsel for respondent Nos.2 & 3 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, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings in non-compoundable offences in the cases of ***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 much wider and is unaffected 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*

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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) i.e. heinous offence.*
- (ii) The offences alleged 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 is reported to have entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No.65 dated 07.10.2021, registered for offences punishable under Sections 452, 323, 148, 149 IPC at Police Station Talwandi Bhai, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

06.11.2023
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Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No