

2023:PHHC:165039

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

283

CRM-M-44181-2003

Date of decision : 05.12.2023

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

Present: Mr. Parveen Kaushik, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Kamal Kumar, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. Status report by way of affidavit of Pardeep Kumar, HPS, Deputy Superintendent of Police, Beri, District Jhajjar 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.20 dated 22.01.2017, registered for offences punishable under Sections 148, 149, 323, 452, 506 IPC and Section 325 IPC (added later on) at Police Station Beri, District Jhajjar on the basis of compromise/affidavit dated 25.08.2023 (Annexure P-2).

2. On 04.09.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioners seeking quashing of FIR No.20 dated 22.01.2017, registered for offences punishable under Sections 148, 149, 323, 452, 506 IPC and Section 325

2023:PHHC:165039

IPC (added later on) at Police Station Beri, District Jhajjar along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 25.08.2023 (Annexures P-2 & P-3).

Notice of motion for 05.12.2023.

On the asking of the Court, Mr. Gaurav Bansal, D.A.G., Haryana accepts notice on behalf of respondent No.1-State. Mr. Kamal Kumar, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Trial Court/Duty Magistrate/Illaq Magistrate on 11.09.2023. On their doing so, the learned Trial Court/Duty Magistrate/Illaq 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 is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

2023:PHHC:165039

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/Duty Magistrate/Illaqa Magistrate 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 14.09.2023 from Civil Judge (Sr. Divn.)-cum-ACJM, Jhajjar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

The parties had appeared before this Court on 11.09.2023. The parties were individually inquired regarding the compromise as well as their individual consent for the same. The parties had replied in affirmative for having arrived at a compromise voluntarily.

Thereafter, the statement of complainant namely Rameshwar & injured Anju Devi and separate statement of accused namely Ram Darshan, Ravi @ Bhallar, Dhan Raj @ Mintu, Maman, Mausami and Savita were recorded, wherein both of them have affirmed the authenticity of compromise between the parties with free consent. The accused have been identified by Sh. S.K. Vashisth, Advocate and complainant/injured have been identified by Sh. Vipin Raj Vashisth, Advocate.

The Investigating Officer of the case, HC Pawan Kumar, No. 370 JJR, Police Station Beri had appeared and vide separately recorded statement submitted that there are only six accused namely Ram Darshan, Ravi @ Bhallar, Dhan Raj @ Mintu, Maman, Mausami and

2023:PHHC:165039

Savita, one complainant victim namely Rameshwar and one injured namely Anju. No other person/accused was ever declared proclaimed offender/person in this case or any other case. All accused and victim/complainant are the parties to the compromise. No other case/FIR is pending between the complainant and the accused of this case in the PS Beri.

On a perusal of the statements, it appears that the compromise between the parties is genuine, voluntary and without any coercion or undue influence. As per the report of the Investigating Officer there are only two persons arrayed as accused in this case. No other accused was proclaimed offender/person in this case. No other case/FIR is pending against accused. Likewise, there is no other case pending between the complainant and the accused of this case.”

4. Mr. Kamal Kumar, Advocate appears for respondents No.2 and 3 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. 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)***

2023:PHHC:165039

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 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.*

2023:PHHC:165039

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.20 dated 22.01.2017, registered for offences punishable under Sections 148, 149, 323, 452, 506 IPC and Section 325 IPC (added later on) at Police Station Beri, District Jhajjar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

05.12.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No