

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

288

CRM-M-42059-2023

Date of decision : 20.11.2023

Davinder Singh @ Dawinder Singh and another Petitioners

versus

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Sukveer Kaur, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Kunal Sarangal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0068 dated 08.07.2020, registered for offences punishable under Sections 452, 324, 323, 427 and 34 of IPC, at Police Station Ghuman Kalan, District Gurdaspur on the basis of compromise deed dated 14.08.2023 (Annexure P-2).

2. On 25.08.2023, the following order was passed:-

“Present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0068 dated 08.07.2020 under Sections 452, 324, 323, 427 and 34 of IPC, registered at Police Station, Ghuman Kalan, District Gurdaspur and all subsequent proceedings arising therefrom, on the basis of compromise/affidavit (Annexure P-2), which is stated to have been effected between the parties.

Notice of motion.

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Learned State counsel, on service of advance copy of the petition, appears and accepts notice on behalf of the respondent-State of Punjab.

Mr. Kunal Sarangal, Advocate appears, accepts notice on behalf of respondent No.2 and admits the factum of compromise.

Post it on 20.11.2023.

In the aforesaid premise, parties are directed to appear before the *Illaq*a Magistrate/trial Court in the meantime for recording their respective statements with regard to the compromise on or before the date fixed.

A report with regard to veracity of the compromise be furnished to this Court on or before the next date.”

3. Pursuant to the aforesaid order, report dated 15.09.2023 from JMIC, Gurdaspur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

- i. There are two accused persons namely Davinder Singh and Rupinder Kaur in the present FIR.
- ii. Accused persons have not been declared proclaimed offender.
- iii. The compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.”

4. Mr. Kunal Sarangal, 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. 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*

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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) 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.0068 dated 08.07.2020, registered for offences punishable under Sections 452, 324, 323, 427 and 34 of IPC, at Police Station Ghuman Kalan, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

20.11.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No