

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

264

CRM-M-42412-2023

Date of decision : 19.10.2023

Gaurav @ Gora and others**..... Petitioners****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Neeraj Kumar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.79 dated 08.04.2023, registered for offences punishable under Sections 323, 325, 452 and 34 of IPC at Police Station City Kapurthala, District Kapurthala on the basis of compromise dated 13.07.2023 (Annexure P-2).

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

“This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing FIR No.79, dated 08.04.2023, registered under Sections 323, 325, 452 and 34 IPC, at Police Station City Kapurthala, District Kapurthala and all subsequent proceedings arising therefrom on the basis of the compromise.

Notice of motion.

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On the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Neeraj Kumar Advocate appears on behalf of respondent No.2 and admit that the compromise has been effected between the parties.

In view of the submissions made on behalf of the parties, they are directed to appear before the Illaqa Magistrate for recording their statements qua the compromise within a period of 15 days.

The trial Court/Illaqa Magistrate is directed to record the statements of the parties and submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused.
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 FIR 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.

Adjourned to 19.10.2023.”

3. Pursuant to the aforesaid order, report from CJM, Kapurthala dated 18.09.2023 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 statement of Investigation officer, there are four accused namely Prince @ Kula, Gaurav @

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Gora, Krishna @ Arjun @ Ajay and Amit Kumar arrayed in the FIR.

2) As per statement of Investigation officer, no accused has been declared as Proclaimed offender.

3) Compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.

4) As per statement of Investigation officer no other FIR has been registered against any accused.

5) The statement of Investigation officer has been recorded on 16.09.2023, and as per his statement there is only one victim/complainant namely Poonam @Sarojini Rani.”

4. Mr. Neeraj Kumar, 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 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.79 dated 08.04.2023, registered for offences punishable under Sections 323, 325, 452 and 34 of IPC at Police Station City Kapurthala, District Kapurthala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

19.10.2023
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No