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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.42700 of 2023****Date of decision : 28.11.2023**

Tarsem Singh and ors.

Versus

....Petitioner(s)

State of Punjab and anr.

.....Respondent(s)**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN*********

Present : Mr. Kuldip Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Nitish, Advocate
for respondent No.2.

*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.141 dated 18.07.2020, registered under Sections 324/323/506/148/149 of IPC, at Police Station Gurharsahai, District Ferozpur and all consequent proceedings arising therefrom on the basis of compromise.

2 On 28.08.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.141 dated 18.07.2020, registered under Sections 324/323/506/148/149 of IPC, at Police Station Guruharsahai, District Ferozpur.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 12.08.2023 (Annexure P-2).

Notice of motion for 28.11.2023.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Nitish, Advocate appears and accepts notice on behalf of respondent No.2 and admits that fact of there being 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/Illaqa Magistrate on 11.09.2023. On their doing so, the learned Trial Court/Duty Magistrate/Illaqa Magistrate/trial Court 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.*

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 Illaqa Magistrate/trial 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 16.09.2023 from Sub Divisional Judicial Magistrate, Guruharsahai has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I have the honour to submit that petitioners/accused Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune

Wali (Mare Khurd), Tehsil Gurusahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Gurusahai, District Ferozpur and complainant/respondent No.2 namely Sukhdev Singh son of Kulwant Singh resident of Basti Dune (Mare Khurd) Tehsil Gurusahai, District Ferozpur, appeared in the Court and got recorded their statements.

Complainant/respondent No.2 namely Sukhdev Singh son of Kulwant Singh, resident of Basti Dune Wali (Mari Khurd) Tehsil, Gurusahai, District Ferozpur got recorded his statement that he has got registered FIR No.141 dated 18.07.2020, under Sections 324, 323, 506, 148, 149 of Indian Penal Code, Police Station Gurusahai, District Ferozpur against total fourteen persons namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Gurusahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of Jawaye Singh Wala, Tehsil Gurusahai, District Ferozpur, accused Bobby son of Surjit Singh, resident of Jawaye Singh Wala, Lakhwinder Singh @ Lakha son of not known, resident of Village Dhandhian, Police Station Lakho Ke Behram, Darshan Singh son of Tehal Singh, resident of Village Nidhana, Jatinder Singh son of Sher Singh, resident of Basti Labh Singh, Gurpreet Singh son of Hansa Singh, resident of Village Haste Wala, Police Station Sadar, Ferozpur and Gora son of Gurmeet Singh, resident of village Chak Mahanta, Police Station Gurusahai. Complainant further stated that he is only complainant/aggrieved in the present case and now with the intervention of respectables, he has compromised the matter with eight accused/petitioners namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Gurusahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Gurusahai, District Ferozpur. Complainant further stated that in the present FIR, fourteen persons were arrayed as accused and compromise has been effected by him without any pressure from any persons with all the eight petitioners/accused persons. Complainant further stated that the

said compromise has been arrived by him without any coercion or undue influence and same is genuine and voluntary one. Complainant further stated that in view of compromise, he has no objection, if the present FIR is quashed against the accused persons namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur.

Petitioners/accused namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur also got recorded their statement that FIR No.141 dated 18.07.2020, under Sections 324, 323, 506, 148, 149 of Indian Penal Code, Police Station, Guruharsahai, District Ferozpur Punjab was got registered against them by Sukhdev Singh son of Kulwant Singh resident of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur. They further stated that now with the intervention of respectables, they have compromised the matter with complainant/respondent Sukhdev Singh son of Kulwant Singh, resident of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur. They further stated that in the present FIR, total fourteen persons were arrayed as accused and compromise had been effected only with them. They further stated that none of them had been declared as proclaimed offender. They further stated that except the present FIR, they are not involved in any other criminal case. They further stated that the compromise has been effected between them without any pressure from any person with the complainant Sukhdev Singh son of Kulwant Singh, resident of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur and the said compromise has been arrived at without any kind of coercion or undue influence and same is genuine and voluntary one. They further stated that in view of compromise, the present FIR be quashed qua them.

ASI Gurdev Singh No.464/FZR, Police Station Guruharsahai also appeared in the court and suffered statement that FIR No.141 dated

18.07.2020, under Sections 324, 323, 506, 148, 149 of Indian Penal Code, Police Station Guruharsahai, District Ferozpur was got registered against fourteen persons namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur, accused Bobby son of Surjit Singh, resident of Jawaye Singh Wala, Lakhwinder Singh @ Lakha son of not know, resident of village Dhandhian, Police Station Lakho Ke Behram, Darshan Singh son of Tehal Singh, resident of village Nidhana, Jatinder Singh son of Sher Singh, resident of Basti Labh Singh, Gurpreet Singh son of Hansa Singh, resident of village Haste Wala, Police Station Sadar, Ferozpur and Gora son of Gurmeet Singh, resident of village Chak Mahanta, Police Station Guruharsahai and they were arrayed as accused. He further stated that the above said FIR was registered on the basis of statement of Sukhdev Singh son of Kulwant Singh, resident Basti Dune Wali (Mare Khurd), Tehsil Guruharsahai, District Ferozpur and he is aggrieved person in the present FIR and there is no other complainant or victim in the present FIR. He further stated that the accused persons are not involved in any other case and none of them has been declared as proclaimed offender. He further stated that accused persons are not involved in any other FIR except the present FIR.

From the statements as recorded in the Court, it is respectfully submitted that fourteen persons were arrayed as accused in the present FIR and out of which eight persons namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mare Khurd), Tehsil Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of Village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur had appeared for recording their statement with regard to compromise. It is respectfully submitted that as per the statement of investigating officer, none of the accused/petitioners is declared proclaimed offender. It is further respectfully submitted that from the statements suffered by the complainant and accused/petitioners, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any

coercion or undue influence. It is further respectfully submitted that as per the statement of investigating officer, petitioners/accused persons are not involved in any other case except the present one. It is further respectfully submitted that as per the statement of investigating officer, there is only one victim/complainant namely Sukhdev Singh son of Kulwant Singh, resident of Basti Dune Wali (Mare Khurd), Tehsil Guruharsahai, District Ferozpur in the present FIR.”

4 The aforesaid report reveals that there are total fourteen accused persons namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur, accused Bobby son of Surjit Singh, resident of Jawaye Singh Wala, Lakhwinder Singh @ Lakha son of not know, resident of village Dhandhian, Police Station Lakho Ke Behram, Darshan Singh son of Tehal Singh, resident of village Nidhana, Jatinder Singh son of Sher Singh, resident of Basti Labh Singh, Gurpreet Singh son of Hansa Singh, resident of village Haste Wala, Police Station Sadar, Ferozpur and Gora son of Gurmeet Singh, resident of village Chak Mahanta, Police Station Guruharsahai. However, the compromise has only been effected with accused-petitioners namely Tarsem Singh son of Surinder Singh, Surinder Singh son of Jangir Singh, Hushiar Singh son of Jangir Singh, Raj Rani wife of Surinder Singh, all residents of Basti Dune Wali (Mari Khurd) Tehsil, Guruharsahai, District Ferozpur, Major Singh son of Jarnail Singh, Jarnail Singh son of Nihal Singh, Sumitra Rani wife of Jarnail Singh and Sikander Singh son of Sucha Singh, all residents of

village Jawaye Singh Wala, Tehsil Guruharsahai, District Ferozpur.

5 Learned counsel for respondents No.2 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 eight petitioners is quashed.

6 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

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

8 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 wide and 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.

9 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.*

10 Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, and it is

only accused-petitioners who have approached this Court by way of present petition, the present petition is being entertained and allowed *qua* them only.

11 The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '***Lovely Salhotra and another vs. State (NCT of Delhi)***' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12 Consequently, the petition is allowed. FIR No.141 dated 18.07.2020, registered under Sections 324/323/506/148/149 of IPC, at Police Station Gurharsahai, District Ferozpur and all proceedings arising therefrom, are, hereby, partially quashed *qua* the petitioners.

28.11.2023
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No