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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.42976 of 2023
Date of decision : 28.11.2023**

Gurdeep Singh

....Petitioner

Versus

State of Punjab and anr.

.....Respondents**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**
*******Present : Mr. Naresh Kumar, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Sahil Koundal, Advocate
for respondent No.2.*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.143 dated 16.07.2020, registered under Sections 420, 120-B of IPC, at Police Station Mahilpur District Hoshiarpur (Annexure P-1), and all consequent proceedings arising therefrom on the basis of compromise dated 18.07.2023 (Annexure P-2).

2 On 31.08.2023, 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.143 dated 16.07.2020, registered for offences punishable under Sections 420, 120-B of IPC, at Police Station Mahilpur, District Hoshiarpur all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise deed dated

18.07.2023 (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. Sahil Koundal, 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 07.10.2023 from Civil Judge (Junior Division)-cum-Judicial Magistrate 1st Class, Garhshankar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In compliance of the Order dated 31.08.2023 passed by Hon’ble Punjab

and Haryana High Court in the above titled petition, parties to petition appeared in the Court of undersigned for recording their statements with regard to the compromise. Moreover, statement of Investigating Officer Retired Inspector Om Parkash also recorded. Following report is submitted :-

1. As per record and as per statement of Investigating Officer, three persons namely Gurdeep Singh, Kuldeep Singh and Harpreet Singh were arrayed as accused.

2. As per record and as per statement of Investigating Officer, accused Kuldeep Singh and Gurdeep Singh were declared as proclaimed offenders but now complainant has compromised the matter with both accused Kuldeep Singh and Gurdeep Singh. Complainant had already compromised the matter with accused Harpreet Singh regarding which present FIR and consequential proceedings have already been quashed qua accused Harpreet Singh vide order dated 08.02.2023 passed by Hon'ble High Court in CRM-M-20498-2022.

3. The present petition before Hon'ble High Court is filed by accused Gurdeep Singh only but matter has been compromised between complainant and both accused Gurdeep Singh and Kuldeep Singh voluntarily and out of their free will and consent and without any coercion and undue influence, as per statement of complainant and his personal examination in court. The compromise appears to be genuine.

4. As per statement of Investigating Officer, accused persons are not involved in any other case.

5. Statement of Investigating Officer Retired Inspector Om Parkash is recorded and as per his statement, there is only one victim who is complainant Nishan Dev in the present FIR.

Report is submitted please."

4 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 petitioner is 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 of the Code to quash proceeding 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 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.

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.143 dated 16.07.2020, registered under Sections 420, 120-B of IPC, at Police Station Mahilpur District Hoshiarpur (Annexure P-1) and all proceedings arising therefrom on the basis of compromise dated 18.07.2023 (Annexure P-2), are, hereby, quashed *qua* the petitioner.

28.11.2023
spn

(PANKAJ JAIN)
JUDGE

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