

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

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CRM-M-48956-2021

Date of decision : 19.07.2023

Sukhwinder Singh**..... Petitioner****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. S.K. Chawla, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Krishan Sharma, Advocate for
Mr. Sandeep Katoch, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of FIR No.0146 dated 01.07.2016, registered for offences punishable under Sections 279, 337, 338 and 427 of IPC, at Police Station Kotwali, District Faridkot on the basis of compromise deed dated 28.09.2021 (Annexure P-5).

2. On 20.04.2023, the following order was passed:-

“Reply by way of affidavit of Deputy Superintendent of Police, Sub-Division, Faridkot, District Faridkot dated 20.01.2022 has been filed. The same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

2. This is a petition filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing of FIR No. 0146 dated 01.07.2016, under Sections 279, 337, 338 read with 427 of IPC registered at Kotwali, Faridkot (Annexure P-1) and all

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consequential proceedings arising therefrom on the basis of compromise dated 28.09.2021 (Annexure P-6) executed between the parties.

3. Learned counsel for the petitioner, inter alia, contends that the instant FIR was registered at the instance of respondent No.2, wherein after completion of investigation, the challan was presented, which is resulting into conviction of the petitioner. He submits that the petitioner has preferred the appeal in the Court of learned Sessions Judge, Faridkot, which is still pending and during this period, the matter has been compromised with the intervention of the respectables

4. Learned counsel for respondent No.2 admits the factum of compromise.

5. Accordingly, the private parties are directed to appear before the concerned trial Court/Duty Magistrate on 16.05.2023 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused in 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 Investigation Officer as to how many victims/complainants are there in the FIR.

To await report of the trial Court, adjourned to 30.05.2023.”

3. Pursuant to the aforesaid order, report dated 18.05.2023 from JMIC, Faridkot has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

The statement of ASI Shavinder Singh, no.583/FDK has also been recorded. He stated that the Investigating Officer of the case namely ASI Gurmeet Singh, PS City Faridkot has already expired and after his death, the present case was marked to him. He further stated that there is one complainant and one accused in the present case. Accused has not been declared as proclaimed offender in the matter of the present case. Accused is not involved in any other case.

From the above statements, it appears that parties have voluntarily entered into compromise and the compromise is genuine, voluntarily, out of free will and without any threat, pressure or undue influence.”

4. Mr. Krishan Sharma, Advocate for Mr. Sandeep Katoch, 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. 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.0146 dated 01.07.2016, registered for offences punishable under Sections 279, 337, 338 and 427 of IPC, at Police Station Kotwali, District Faridkot and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

19.07.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No