

**CRM-M-43934-2023 &
CRM-M-43317-2023**

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2023:PHHC:166182

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

Date of decision : 05.12.2023

1. CRM-M-43934-2023

Rakesh Kumar and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

2. CRM-M-43317-2023

Bajit Kumar and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kamal Narula, Advocate
for the petitioners in CRM-M-43934-2023 and
for respondents No.2 to 5 in CRM-M-43317-2023.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Munish Gulati, Advocate
for the petitioners in CRM-M-43317-2023 and
for respondents No.2 CRM-M-43934-2023.

PANKAJ JAIN, J. (Oral)

1. By way of present petitions, the petitioners are seeking quashing of DDR No.33 dated 29.02.2020, registered for the offences punishable under Sections 341, 323, 148 and 149 of IPC at Police Station Khui Khera, District Fazilka and FIR No.28 dated 29.02.2020 for the offences punishable under Sections 341, 324 and 34 of IPC (Section 326 of IPC added later on), at Police Station Khui Khera, District Fazilka on the basis of compromise deed dated 21.08.2023 (Annexure P-3).

2. These are matters arising out of version and cross-version.
3. On 04.09.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.28 dated 29.02.2020, registered for offences punishable under Sections 341, 324, 34 IPC and Section 326 IPC (added later on) at Police Station Khuian Khera, District Fazilka (Annexure P-1) alongwith all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 21.08.2023 (Annexure P-3).

Notice of motion for 05.12.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Munish Gulati, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a 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 on the next date which is stated to be 14.09.2023. On their doing so, the learned 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 Trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

4. Pursuant to the aforesaid order, report dated 26.10.2023 from Chief Judicial Magistrate, Fazilka 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 three accused namely Rakesh Kumar son of Mukhtiar Singh; Mukhtiar Singh son of Khushal Singh both residents of village Shajrana, Tehsil & District Fazilka and Parkash Singh son of Gurnam Singh resident of Machhi Ram Lahoriya @ Shajrana, Tehsil & District Fazilka in this case.
- (ii) As per the statement of Investigating Officer and record, none of accused is declared proclaimed offender in this case.
- (iii) The compromise effected between the parties appears to be genuine and result of free will of the parties without any kind of pressure, fraud and misrepresentation.
- (iv) As per the statement of the Investigating Officer,

no other criminal case is pending against any of the accused.

(v) As per the statement of ASI Jagjeet Singh, Investigating Officer, on the statement of Baljeet Kumar son of Puran Chand, the FIR was registered against three accused persons.”

5. Similarly, in CRM-M-43317-2023, trial Court vide its report dated 08.11.2023, has recorded as follows:-

(i) There are six accused namely Baljit Kumar son of Puran Chand; Pardeep Kumar son of Milkh Raj; Surjit Singh son of Sham Dass; Lovepreet Singh son of Faqir Chand; Sham Dass son of Goma Ram and Vanish Kumar @ Manish Kumar in this case.

(ii) As per the statement of Investigating Officer and record, accused is not declared proclaimed offender.

(iii) The compromise effected between the parties appears to be genuine and result of free will of the parties without any kind of pressure, fraud and misrepresentation.

(iv) As per the statement of the investigating officer, no other criminal case is pending against any of the accused.

(v) As per the statement of ASI Jagjeet Singh, Investigating Officer, on the statement of Rakesh Kumar son of Mukhtair Singh, the DDR was registered against Six accused persons.”

6. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

7. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

8. I have heard learned counsel for the parties and have carefully gone through the records of the case.

9. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings recognizing compromise between parties 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 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.

10. 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.*

11. Consequently, the petitions are allowed. DDR No.33 dated 29.02.2020, registered for the offences punishable under Sections 341, 323, 148 and 149 of IPC at Police Station Khui Khera, District Fazilka and FIR No.28 dated 29.02.2020 for the offences punishable under Sections 341, 324 and 34 of IPC (Section 326 of IPC added later on), at Police Station Khui Khera, District Fazilka and all proceedings arising

therefrom, are, hereby, quashed qua the petitioners.

12. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

05.12.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No