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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.43286 of 2023
Date of decision : 28.11.2023**

Jaswinder Kaur

....Petitioner

Versus

State of Punjab and ors.

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

Mr. Kunal Vinayak, AAG Punjab.

Mr. Sandeep Sharma, Advocate
for respondent Nos.2 and 3.
*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.103 dated 01.07.2016, registered under Sections 452, 324, 323, 506, 148 and 149 of IPC, at Police Station Shambu, District Patiala, including the judgment of conviction dated 06.05.2023 (Annexure P-2) passed by Learned Judicial Magistrate 1st Class, Rajpura, on the basis of compromise dated 14.05.2023 and all consequent proceedings arising therefrom on the basis of compromise

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.103 dated 01.07.2016, registered for offences punishable under Sections 452, 324, 323, 506, 148 and 149 of IPC at Police Station Shambu, District Patiala and all subsequent

proceedings arising thereto on the basis of compromise.

*Counsel for the petitioner relies upon **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)**, to submit that the FIR can be quashed on the basis of compromise even post conviction. Appeal is stated to pending for 20.09.2023.*

He further relies upon Panchyati compromise dated 14.05.2023 (Annexure P-3) executed between the parties.

*Notice of motion for **28.11.2023**.*

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Sandeep Sharma, Advocate appears on behalf of respondents No.2 & 3 and admits the fact of there being compromise between the parties.

*In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **15.09.2023**.*

On their doing so, the learned 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 from JMIC, Rajpura dated 18.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“The report of this Court was called to the effect whether the compromise, which has been arrived at between the parties, is voluntary and also to record statements of the affected parties. In compliance of said orders, the parties appeared before the undersigned on 15.09.2023. The statement of Complainant Harcharan Singh son of Shadi Singh, Resident of Village Mohi Kalan, Tehsil Rajpura, District Patiala, injured namely Karnail Kaur wife of Shadi Singh, Resident of Village Mohi Kalan, Tehsil Rajpura, District Patiala and accused namely Jaswinder Kaur wife of Gurmail Singh daughter of Shukar Singh, Resident of Village Mohi Kalan, Tehsil Rajpura, District Patiala, now resident of Village Khasi Khurd, Tehsil and District Ludhiana have been recorded. After going through their respective statements made by the said persons, this Court is of the opinion that the parties have settled the matter voluntarily, without any pressure/coercion from any quarter and said compromise is genuine.

It is further submitted that statement of ASI Mohar Singh, Number 2705/Patiala was also recorded to the said effect. There are only six accused persons in the present FIR. No accused person has been declared as proclaimed offender in the present FIR. Accused namely Jasmer Singh alias Monu son of Gulzar Singh is also an accused in the case FIR No.19 dated 15.01.20218, under Section 11 of Prevention of Cruelty against Animals Act, Police Station, Jagadhari (Haryana) and in the case FIR No.218 dated 25.07.2017, under Section 11 of Prevention of Cruelty against Animals Act, Police Station Mahesh Nagar, Ambala (Haryana). Except accused Jasmer Singh alias Monu no other accused is involved in any other case. Total number of accused persons in the present case are six. There is only one victim namely Karnail Kaur and one complainant namely Harcharan Singh.

Photocopies of statement of complainant Harcharan Singh, injured Karnail Kaur, accused Jaswinder Kaur and ASI Mohar Singh, Number 2705/Patiala are attached with the report. This is for your kind information and necessary action please.”

4 The aforesaid report reveals that there are six accused persons and there is only one victim namely Karnail Kaur and one complainant

namely Harcharan Singh. However, the compromise has only been effected with accused-petitioner Jaswinder Kaur.

5 Mr. Sandeep Sharma, Advocate appears for respondents No.2 and 3 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.

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 Cr.P.C. to quash proceedings in non-compoundable offences in the case of ***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 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 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-petitioner who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Jaswinder Kaur only.

10 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.”

11 Consequently, the petition is allowed. FIR No.103 dated 01.07.2016, registered under Sections 452, 324, 323, 506, 148 and 149 of IPC, at Police Station Shambu, District Patiala, including the judgment of conviction dated 06.05.2023 (Annexure P-2) passed by Learned Judicial Magistrate 1st Class, Rajpura, and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

28.11.2023
spn

(PANKAJ JAIN)
JUDGE

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