

298 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.43986 of 2023 (O&M)
Date of decision : 11.12.2023

Rajesh Kumar @ Bablu

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. L.K.Gollen, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Anand Vardhan Khanna, Advocate
and Mr. G.S.Bedi, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.123 dated 10.04.2021, registered for offences punishable under Sections 406/420/506 IPC at Police Station Matlauda, District Panipat on the basis of compromise.

2. On 05.09.2023, the following order was passed :

“Counsel for the petitioner submits that out of total amount of Rs.18 lakh the petitioner has already paid an amount of Rs.12 lakh. Today counsel for the petitioner handed over a draft amounting to Rs.3 lakh bearing DD No.750070 dated 01.09.2023 to counsel for respondent No.2, who appears on advance notice, in lieu of the settlement and submits that rest of the amount of Rs.3 lakh shall be handed over on the day the parties appear before the Trial Court/Illaqa Magistrate/Duty Magistrate for

getting their statements recorded before the next date of hearing before this Court.

Notice of motion for 11.12.2023.

On asking of the Court, Mr. Gaurav Bansal, D.A.G., Haryana appears and accepts notice on behalf of respondent No.1/State. Mr. Pawandeep Singh, Advocate appears and accepts notice on behalf of respondent No.2.

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/Illaq Magistrate along with a demand draft of Rs.3 lakh in favour of respondent No.2 on 11.09.2023. On their doing so, the learned Trial Court/Duty Magistrate/Illaq Magistrate 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 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/Duty Magistrate/Illaq Magistrate 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 Judicial Magistrate 1st Class, Panipat has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“xxxxxxx . As per directions of the Hon'ble Punjab and Haryana High Court, Chandigarh. Statement of complainant namely Dhan Kumar S/o Sh. Sant Ram R/o House No. 1188, Israna Panipat & accused person namely Rajesh Kumar @Bablu S/o Hawa Singh R/o Village Ahar, Panipat recorded on 19.09.2023. Statement of PSI Deepak recorded on today i.e.

06.10.2023. Statements of both the parties regarding compromise recorded and also verified the factum of compromise between the parties which was entered with free will and full sense of the parties. (Statements are attached herewith).

3. As per Statement of Investigating Officer:

(i) There is only one accused in this case namely Rajesh @ Bablu S/o Hawa Singh

(ii) Accused has not been declared proclaimed offender in any case.

(iii) Compromise between the parties is genuine and has been made with their free Consent and Voluntary of the parties.

(iv) As per Statement of Investigating Officer, following Cases are registered against accused namely Rajesh @ Bablu S/o Hawa Singh :

(a) FIR No. 454 dated 14.11.2018 u/s 148, 149, 323, 457 & 506 of IPC, P.S. Madlauda, Panipat under Trial.

(b) FIR No. 485 dated 20.04.2011 u/s 25 of Arms Act, P.S. City Panipat.

(c) FIR No. 24 dated 04.02.2019 u/s 25 of Arms Act, P.S. Israna, Panipat.

(v) As per Statement of Investigating Officer, there is only one complainant namely Dhan Kumar Mehla S/o Santram in this case.

4. It is respectfully submitted to your Lordship that compromise effected between the parties inter-se is genuine, voluntary and without any coercion or under influence.

5. It is submitted that as per statement of complainants/injured and accused persons, the compromise between parties is genuine and voluntarily, out of their free will.”

4. Learned counsel for respondent 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 are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 26.10.2021 (Annexure P-4). Reply on behalf of respondent No.1-State has been filed. The same is taken on record.

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 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.

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.123 dated 10.04.2021, registered for offences punishable under Sections 406/420/506 IPC at Police Station Matlauda, District Panipat and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

11.12.2023

Pooja sharma-I

(PANKAJ JAIN)
JUDGE

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