

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

Date of decision : 24.08.2023

CRM-M-46154-2022

Rachhpal Singh and others

....Petitioners

Versus

State of Punjab and another

...Respondents

CRA-S-654-SB-2012

Rachhpal Singh and others

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amit jaiswal, Advocate for
Mr. V.S. Dhindsa, Advocate for the appellants/petitioners.

Mr. Kunal Vinayak, AAG, Punjab
for respondent No.1-State.

Mr. N.P. Chandel, Advocate
for the complainant/respondent No.2.

PANKAJ JAIN, J. (ORAL)

CRA-S-654-SB-2012

As per order dated 12th of July, 2023, the instant appeal has
been tagged with CRM-M-46154-2022 and placed before this Court.

On request made by counsel for the appellants the appeal is
taken on board today itself for disposal.

CRM-M-46154-2022

CRA-S-654-SB-2012

This order shall dispose off the afore-captioned petition as well

as appeal. The petitioners/appellants herein are seeking quashing of FIR No.42, dated 07.05.2009 registered for the offences punishable under Sections 307, 323, 324, 148, 149 of the Indian Penal Code, 1860, at Police Station Lambi, Tehsil Malout, District Sri Muktsar Sahib (Annexure P-2) on the basis of compromise. He further laid challenge to the judgment of conviction and order of sentence dated 17th of January, 2012 passed by the Sessions Judge, Sri Muktsar Sahib whereby the appellants stand convicted and sentenced as under :

Name of the petitioners	Offence u/s	Rigorous Imprisonment	Fine	In default of payment of fine (Rigorous Imprisonment)
Rachhpal Singh	324 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	323/34 IPC	6 months	-	-
Mander Singh	324 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	323/34 IPC	6 months	-	-
Jagmit Singh	324 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	323/34 IPC	6 months	-	-
Ravinder Singh	323 IPC	6 months	-	-
	324/34 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month
	324/34 IPC	1 year	500/-	1 month

All the sentences were ordered to be run concurrently.

2. Ld. Counsel for the petitioners/appellants relies upon Para No.13 of the judgment passed by Apex Court 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)**, wherein it has been held that :-

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice....”

3. On 10th of October, 2022 (in CRM-M-46154-2022), the following order was passed :-

“Counsel for the petitioners submits that the matter stands compromised after conviction. He submits that initially FIR was lodged for offences punishable under Sections 307, 323, 324, 148 & 149 IPC however, after trial the petitioners were acquitted for offence punishable under Section 307 IPC and all the

petitioners were convicted for offences punishable under Sections 323, 324 & 34 IPC. He thus claims that the present case would not fall within the exceptions as carved out in *State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688* and will be covered by the ratio of law laid down in *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)*.

Notice of motion for 02.02.2023.

On the asking of the Court, Mr. Arun Gupta, AAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Naresh Paul Chandel, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties and reiterates that only respondent No.2 is the victim in the present case. **CRA-SB-654-SB-2012** is stated to be pending before this Court.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaqa Magistrate/trial Court on 27.10.2022. On their doing so, the learned 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.

Compromise deed has been placed on record as Annexure

P-3. Copy of the paper book and appeal be also sent to the Court concerned.

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.”

4. Pursuant to the aforesaid order, report from JMIC, Malout dated 15th of November, 2022 has been received, which is taken on record.

As per the report, the Trial Court has recorded as follows:-

“1. As per the statement of IO, only four persons were arrayed as accused i.e. (1) Rachhpal Singh son of Jagat Singh, (2) Jagmit Singh son of Harpal Singh, (3) Mander Singh son of Teja Singh and (4) Ravinder Singh son of Chhinderpal Singh all residents of Khudian Mahan Singh, PS Lambi, District Sri Muktsar Sahib in this FIR.

2. As per record, no accused involved in this case is absconding or has been declared as PO/proclaimed person.

3. The compromise, which has been entered into by the parties in this case, is genuine, voluntary and without any coercion or undue influence.

4. As per record, accused persons are not involved in any other FIR except this FIR.

5. As per the statement of IO, there was only one victim/complainant in this FIR i.e. Ramandeep Singh.”

5. Ld. Counsel appearing 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 including the judgment of conviction/order of sentence, against the petitioners are quashed.

6. Similarly Ld. State Counsel has stated no objection in case the

FIR and proceedings subsequent thereto are quashed based upon the compromise.

7. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

8. 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.

9. 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.
- (vi) Though the petitioners already stand convicted yet in

view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.

10. Consequently, the petition (CRM-M-46154-2022) is allowed. FIR No.42, dated 7th of May, 2009 registered for the offences punishable under Sections 307, 323, 324, 148, 149 of the Indian Penal Code, 1860, at Police Station Lambi, Tehsil Malout, District Sri Muktsar Sahib (Annexure P-2) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.
12. In view of the above, the appeal (CRA-S-654-SB-2012) also stands allowed and the judgment of conviction and order of sentence dated 17th of January, 2012 passed by the Sessions Judge, Sri Muktsar Sahib is ordered to be annulled.
13. A copy of this order be kept on the file of other connected case.

August 24, 2023
Dpr (PANKAJ JAIN)
JUDGE

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