

280 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43883-2023
Date of decision : 21.11.2023

PAWAN @ ASHISH

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Satish Kumar Garg, Advocate for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Anil K. Soni, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.771 dated 25.12.2021, registered under Sections 406, 420 and 506 of IPC, at Police Station Gharaunda, District Karnal, Haryana (Annexure P-1) on the basis of compromise.

2. On 02.09.2023, the following order was passed :-

“Present petition has been filed under Section 482 Cr. P.C. seeking quashing of FIR No.771 dated 25.12.2021, registered under Sections 406,420 and 506 of IPC, at Police Station Gharaunda, District Karnal, Haryana and all subsequent proceedings arising therefrom, on the basis of compromise/ affidavit (Annexure P-2), which is stated to have been effected between the parties.

Notice of motion.

Learned State counsel, on service of advance copy of the petition, appears and accepts notice on behalf of the respondent-

State of Haryana.

Mr. Anil Soni, Advocate appears, accepts notice on behalf of respondent No.2 and admits the factum of compromise.

In the aforesaid premise, parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to the compromise.

A report with regard to veracity of the compromise be furnished to this Court on or before the next date.

Post it on 21.11.2023. ”

3. Pursuant to the aforesaid order, report from JMFC, Karnal dated 15.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xxx Investigating officer ASI Gurjeet Singh appeared before the Court and made statement to the effect that there are three accused persons in this case (i) Pawan @ Ashish son of Bansi Ram (ii) Pawan son of Azad (iii) Mandeep Singh son of Jaswant Singh; there is one complainant – Sunita Devi wife of Isham Singh. xxxxx The compromise between the complainant and accused Pawan @ Ashish is genuine, voluntary, without any pressure. The original statements of the complainant and accused Pawan @ Ashish, the statement of investigation officer, ”

4. The aforesaid report reveals that there are three accused persons namely (i) Pawan @ Ashish (ii) Pawan and (iii) Mandeep Singh. However, the compromise has only been effected with accused-petitioner Pawan @ Ashish.

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 against the petitioner Pawan @ Ashish are quashed.

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

10. 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, namely, Pawan and Mandeep and it is only the petitioner Pawan @ Ashish who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Pawan @ Ashish only.

11. 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.”

12. Consequently, the petition is allowed. FIR No.771 dated

25.12.2021, registered under Sections 406, 420 and 506 of IPC, at Police Station Gharaunda, District Karnal, Haryana (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the present petitioner only.

November 21, 2023
Dpr (Pankaj Jain)
Judge

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