

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

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CRM-M-45407-2023

Date of decision : 18.12.2023

Rohit Kataria and others**..... Petitioners****versus****State of Punjab and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Arjun Veer Sharma, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Ankit Gupta, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.11 dated 16.01.2023, registered for offences punishable under Sections 307/323/341/506/148/149 IPC (later on Section 307 IPC deleted on 25.02.2023), at Police Station Division No.1, District Ludhiana on the basis of compromise deed dated 01.02.2023 (Annexure P-2).

2. On 13.09.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.PC by the petitioners seeking quashing of FIR No.11 dated 16.01.2023, registered for offences punishable under Sections 307/323/341/506/148/149 IPC (later on Section 307 IPC deleted on 25.02.2023), at Police Station Division No.1, District Ludhiana.

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Learned counsels are *ad-idem* that the parties have compromised the matter. Challan already stands presented.

Learned counsel for the petitioners submits that offence punishable under Section 307 IPC stands deleted on 25.02.2023.

Learned State counsel admits to the said fact.

Prayer is *qua* respondent No.3 as well who is stated to be a resident of Canada. The trial Court shall grant liberty to respondent No.3 to appear by way of V.C. or through his validly constituted attorney.

Notice of motion for **18.12.2023**.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr.K.S.Sidhu, Advocate appears and accepts notice on behalf of respondents No.2 & 4 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 respondents No.2 & 4 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 18.09.2023. On their doing so, the learned Duty Magistrate/Illaq 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?

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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 Duty Magistrate/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 dated 20.09.2023 from JMIC, Ludhiana has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

5. It is humbly submitted that as per record available with the court of undersigned, total nine persons namely Rohit Kataria, Simrat Singh, Rohit Kumar @ Dabbu, Pushkar, Mayank Kapoor, Gagan Goyal, Anish Saini @ Bholu, Rahul Chhabra and Saurabh Saini @ Pappi were arrayed as accused in the FIR no. 11 dated 16.01.2023, under Sections 307/323/341/506/148/149 of IPC (later on Section 307 IPC deleted), Police Station Division No. 1, Ludhiana, which was got registered by complainant Kuldeep Chhabra. Now the complainant as well as both the injured have compromised the matter with all the accused. There is only complainant namely Kuldeep Chhabra and two injured persons namely Tarun Kumar Chhabra and Deepak Chhabra in the present FIR. There is no other accused person other than these nine

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accused who was named as accused in the present FIR. All these accused have never been declared as proclaimed offender in above said FIR. No other case is pending against the accused persons in any Court. Challan has already been presented in the present FIR.

6. It is further humbly submitted that after going through the statements of parties so recorded, I am of the considered view that the compromise between the complainant and accused persons is valid, genuine, voluntary and without any coercion or undue influence.”

4. Mr. Ankit Gupta, Advocate appears for respondents No.2 to 4 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 petitioners are quashed.

5. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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.11 dated 16.01.2023, registered for offences punishable under Sections 307/323/341/506/148/149 IPC (later on Section 307 IPC deleted on 25.02.2023), at Police Station Division No.1, District Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

18.12.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No