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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.52480 of 2023****Date of decision :20.12.2023**

Mohit Taneja and ors.

....Petitioners

Versus

State of Haryana and anr.

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

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Aashish Bhagat, Advocate
for respondent No.2.*********PANKAJ JAIN, J. (ORAL)**

1. By way of present petition, the petitioner is seeking quashing of FIR No.0108 dated 04.02.2017 registered under Sections 147, 148, 149, 285, 323, 365, 452, 506 and 34 of IPC and 25, 54 and 59 of Arms Act, 1959 at Police Station Gurgaon City, Gurugram along with all consequent proceedings arising therefrom on the basis of compromise.

2. Reply by way of affidavit of Mukesh kumar, HPS. Assistant Commission of Police, City Gurugram, Haryana filed by Learned State counsel, is taken on record. Copy thereof supplied to the learned counsel for the petitioner.

3. On 16.10.2023, the following order was passed:

“The present petition has been filed for quashing of FIR No.0108 dated 04.02.2017 registered under

Sections 147, 148, 149, 285, 323, 365, 452, 506 and 34 of IPC and 25 and 54 of Arms Act, 1959 at Police Station Gurgaon City, Gurugram along with all consequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

On asking of the Court, Mr. Kirshan K.Chahal, Addl. A.G., Haryana accepts notice on behalf of respondent No.1-State and Mr. Aashish Bhagat, Advocate puts in appearance on behalf of respondent No.2.

Learned counsel for the petitioner(s) is directed to supply copy of the paper book to the counsel opposite during the course of the day.

Let the parties now appear before the Trial Court/Illaq Magistrate on 03.11.2023 or any other date convenient to the Court for recording their statements with regard to compromise. The trial Court/Illaq Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The trial Court/Illaq Magistrate is also directed to send a report along with the statements of the parties with regard to validity or otherwise of the compromise effected between the parties. It shall also be reported whether petitioners have been declared Proclaimed Offenders in this case or not.”

4. Pursuant to the aforesaid order, report dated 30.11.2023 from Chief Judicial Magistrate, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

*“ In compliance of the order dated 16.10.2023 of Hon’ble High Court, notice to both the parties were issued for 18.11.2023 on 03.11.2023. Thereafter, on 18.11.2023 Complainant/respondent-**Shailesh Yadav-(complainant)** and accused persons namely **Mohit Taneja, Kamal Kant Gupta and Divakar Gupta** appeared before this Court (being the trial Court).*

Thereafter, complainant as well as accused persons got recorded their statements separately qua compromise effected between them. It is humbly submitted that before recording the statements qua compromise effected between the parties, the complainant as well as the accused have been asked by this Court regarding the genuineness of the compromise. Both the parties have stated that they entered into the compromise voluntarily and without any coercion and undue influence.

*Thereafter, the Investigating Officer was called in the Court, upon which Investigating Officer – **HC Yogesh, Belt No.562?GGM, Police Station City Gurugram** turned up before the Court on 18.11.2023 and got recorded his statement qua the present case.*

In view of the statements of the complainant, accused persons and the Investigating Officer, this Court make the following report that:

“(i) The compromise effected between both the parties i.e. complainant Shailesh Yadav and accused persons Mohit Taneja, Divakar Gupta and Kamal Kant Gupta, is genuine, voluntarily and effected without any fear, pressure or undue influence.

(ii) Further that petitioners/accused persons have not been declared Proclaimed Offenders in this case”.

5. Learned counsel for respondents 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 is quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

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

8. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding 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 wise 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.

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) 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.*

10. Consequently, the petition is allowed. FIR No.0108 dated 04.02.2017 registered under Sections 147, 148, 149, 285, 323, 365, 452, 506 and 34 of IPC and 25, 54 and 59 of Arms Act, 1959 at Police Station Gurgaon City, Gurugram, is, hereby, quashed *qua* the petitioners.

20.12.2023
spn

(PANKAJ JAIN)
JUDGE

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