

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

320

CRM-M-44849-2023(O&M)

Date of decision : 13.12.2023

SURINDER KUMAR**....Petitioner**

Versus

STATE OF PUNJAB AND OTHERS**.....Respondents****CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN*********

Present : Mr. Rhythem Bajaj, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Iqbaldeep Singh, Advocate
for respondents No.2 & 3.

*********PANKAJ JAIN, J. (ORAL)**

1. By way of present petition, the petitioner is seeking quashing of FIR No.72 dated 04.06.2020, registered for offences punishable under Section 406 of IPC (offence under Section 420 IPC added later on), at Police Station Khuian Sarwar, District Fazilka on the basis of compromise.

2. On 11.09.2023, the following order was passed :-

“ The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.72 dated 04.06.2020, registered for offences punishable under Section 406 of IPC (offence under Section 420 IPC added later on), at Police Station Khuian Sarwar, District Fazilka and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise deed dated 16.08.2023 (Annexure P-2).

Notice of motion.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of the respondent-State.

Mr. Vishal Sharda, Advocate has appeared and filed his power of attorney on behalf of respondent Nos.2 and 3 today in the Court and the same is taken on record. He affirmed the factum of compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 26.09.2023.

On their doing so, the learned 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.

Adjourned to 13.12.2023.

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. ”

3. Pursuant to the aforesaid order, report dated **27.09.2023** from Judicial Magistrate 1st Class, Abohar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. There is one accused in the present case namely Surinder Kumar son of Rameshwar Lal son of Moman Ram, resident of village Telupura, Tehsil Abohar, District Fazilka and no other accused/person is involved in the present occurrence.

2. *As per statement of IO ASI Lakhwinder Singh, No. 268/FZK, PS Khuian Sarwar above-said accused person has not been declared as proclaimed offender/person in the present case at any stage of trial.*

3. *From the statements of parties duly identified by their counsels Sh. Prabhjot Kalra Advocate and Sh.DP Sokhal Advocate respectively as well as from the conduct of the parties, this Court is satisfied that the compromise in the present case is valid, genuine, voluntary and without any coercion or undue influence;*

4. *As per statement given by IO as well as the complainant and the accused, one another case is still pending against accused Surinder Kumar in the Court of Sh. Rajan Aneja, JMIC, Abohar under Section 138 of N.I Act, filed by the complainant of this case.*

5. *Statement of IO ASI Lakhwinder Singh, No. 268/FZK has been recorded qua abovesaid points.”*

4. Learned counsel for respondents No.2 & 3 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 16.08.2023 (Annexure P-2).

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. 72 dated 04.06.2020, registered for offences punishable under Section 406 of IPC (offence under Section 420 IPC added later on), at Police Station Khuian Sarwar, District Fazilka on the basis of compromise and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

13.12.2023
Pooja sharma-I

(PANKAJ JAIN)
JUDGE

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