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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 45092-2023 (O&M)
Date of decision :14.12.2023

Pawan Kumar @ Ashish

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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

PANKAJ JAIN, J. (ORAL)

1. Reply by way of affidavit of Nayab Singh, HPS Deputy Superintendent of Police, Women Safety, Karnal on behalf of respondent-State of Haryana has been filed. The same is taken on record.
2. By way of present petition, the petitioner is seeking quashing of FIR No. 10 dated 04.01.2022, registered for offences punishable under Sections 406, 420 of IPC and later added Section 201 of IPC and Section 24 of Immigration Act, at Police Station Sector 32-33, Karnal, Haryana (Annexure P-1) on the basis of compromise dated 04.08.2023 (Annexure P-2).
3. On 12.09.2023 the following order was passed :

The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.10 dated 04.01.2022,

registered for offences punishable under Sections 406, 420 IPC and Section 201 IPC (added later on) and Section 24 of Immigration Act at Police Station Sectors 32- 33, Karnal, Haryana along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise dated 04.08.2023 (Annexure P-2).

Notice of motion for 14.12.2023.

On the asking of the Court, Mr. Gaurav Bansal, D.A.G., Haryana accepts notice on behalf of respondent No.1-State. Mr. Anil Soni, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioner as well as respondent No.2 are directed to appear before learned Trial Court on 15.09.2023 which is stated to be the next date fixed. On their doing so, the learned 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.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned 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 dated 16.09.2023 from Judicial Magistrate 1st Class, Karnal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

a. Number of persons arrayed as accused in the FIR?

Ans. As per statement of ASI Gurjeet Singh, No. 401, Karnal present FIR was registered against three persons namely Pawan s/o Azad, Pawan Kumar @ Ashish and Mandeep.

b. Whether any accused is declared as proclaimed offender?

Ans. As per statement of ASI Gurjeet Singh, No. 401, Karnal, no accused has been declared as proclaimed offender.

c. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Ans. As per the statement of both parties, it appears that compromise is genuine, voluntary & without any coercion or undue influence.

d. Whether the accused persons are involved in any other case or not?

Ans. As per statement of ASI Gurjeet Singh, No. 401, Karnal, Pawan s/o Azad, Pawan Kumar @ Ashish and Mandeep Singh are involved in other cases i.e. FIR No. 771 dated 25.12.2021 under Sections 406/420/506/201 of IPC and Section 24 of Immigration Act, Police Station Gharaunda, Karnal.

e. 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?

Ans. As per statement of ASI Gurjeet Singh, No. 401, Karnal there is only one victim ie complainant named Romi.

5. Learned counsel 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 is quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 04.08.2023 (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 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.*

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. 10 dated 04.01.2022, registered for offences punishable under Sections 406, 420 of IPC and later added Section 201 of IPC and Section 24 of Immigration Act, at Police Station Sector 32-33, Karnal, Haryana and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

14.12.2023
Anu

(PANKAJ JAIN)
JUDGE

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