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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.48621 of 2023
Date of decision :20.12.2023**

Jaswant Singh and ors.

....Petitioners

Versus

State of Punjab and ors.

.....Respondents**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**
*******Present : Ms. Arti Kaur, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Chetan Bansal, Advocate
for respondent No.2.
*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of General Diary No.23 dated 06.02.2021 registered under Sections 323, 325, 342, 354 and 148 of IPC, at Police Station Lopoke, District Amritsar Rural along with all consequent proceedings arising therefrom on the basis of compromise.

2 On 05.10.2023, the following order was passed:

“The present petition has been filed for quashing of General Diary No.23 dated 06.02.2021 registered under Sections 323, 324, 342, 354 and 148 of IPC, at Police Station Lopoke, District Amritsar Rural along with all subsequent proceedings on the basis of compromise.

Notice of motion for 20.12.2023.

On asking of the Court, Mr. Sandeep, Additional Advocate General, Punjab accepts notice on behalf of

respondent No.1-State and Mr. Umesh Aggarwal, Advocate assisting counsel of Mr. Chetan Bansal, Advocate put 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 course of the day.

Let the parties now appear before the trial Court/Illaqa Magistrate on 18.10.2023 or any other date convenient to the Court for recording their statements with regard to compromise. The trial Court/Illaqa 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/Illaqa Magistrate is also directed to send a report along with 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 declared Proclaimed Offenders in this case or not.”

3 Pursuant to the aforesaid order, report dated 18.12.2023 from Judicial Magistrate 1st Class, Ajnala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“From the aforementioned statements of the parties, it clearly appears that all the accused and the complainant/aggrieved/injured are indeed party to the present compromise and that the said compromise inter-se the parties was, in fact, genuine, voluntary and the same had been effected without any pressure, coercion or undue influence. All the concerned had also joined the said compromise, for as per the information had also joined the said compromise, for as per the information so made available before this Court, vide the means of the statement of the ASI Balkar Singh, No.1241/ASR ®, P.S.Lopoke, Ajnala, in the matter, only 06 persons namely Jaswant Singh s/o Sucha Singh, Gurmit Kaur w/o Sucha Singh, Ranjit Kaur w/o Jaswant Singh, Gursewak Singh s/o Mukhtiar Singh, Kuldeep Kaur w/o Baldev Singh and Gehna Singh s/o Tek Singh were arraigned as the accused and that Sandeep Kaur w/o Major Singh was the only complainant/injured or aggrieved so involved in the present cross-

case.

As per the statement of the ASI Balkar Singh, No.1242/ASR (R), P.S. Lopoke, Ajnala, the accused were reportedly not declared as proclaimed offender(s) and the same were also not involved in any other criminal case.”

4 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.

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

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. General Diary No.23

dated 06.02.2021 registered under Sections 323, 325, 342, 354 and 148 of IPC, at Police Station Lopoke, District Amritsar Rural along with all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

20.12.2023
spn

(PANKAJ JAIN)
JUDGE

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