

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision : 04.09.2023

1. CRM-M-48108-2022

Jobanpreet Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

2. CRM-M-48149-2022

Kulbir Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Yaseen Sethi, Advocate
for the petitioners in CRM-M-48108-2022 and
for respondents No.2 and 3 in CRM-M-48149-2022.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Ramandeep Kaur, Advocate for
Mr. Varinder Basa, Advocate
for the petitioners in CRM-M-48149-2022 and
for respondents No.2 and 3 in CRM-M-48108-2022.

PANKAJ JAIN, J. (Oral)

1. By way of present petitions, the petitioners are seeking quashing of DDR No.19 dated 01.07.2022, registered for the offences punishable under Sections 323, 324 and 34 of IPC at Police Station Qila Lal Singh, District Gurdaspur and FIR No. 57 dated 28.06.2022 for the offences punishable under Sections 323, 324, 148 and 149 of IPC, at Police Station Qila Lal Singh, District Gurdaspur, on the basis of

compromise dated 13.09.2022 (Annexure P-3).

2. These are matters arising out of version and cross-version.

3. On 19.04.2023, the following order was passed:-

“The prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.57 (P-1), dated 28.06.2022, under Sections 323, 324, 148, 149 IPC registered at Police Station Qila Lal Singh, District Gurdaspur, Punjab alongwith all subsequent proceedings arising therefrom on the basis of compromise dated 13.09.2022.

Learned counsel for the petitioner submits that it is a case of version and cross-version.

Learned counsel for the respondent No.2 and 3 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 30 days, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether challan is presented in the Court?
If so, against how many accused;
- iii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iv) status/stage of the trial/case;
- (v) to record the statements of all the

concerned parties with regard to the genuineness and validity or otherwise of the compromise;

- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.

Report be sent through the District & Sessions Judge, before the next date of hearing.

Adjourned to 04.09.2023.”

4. Pursuant to the aforesaid order, report from JMIC, Batala dated 26.06.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows w.r.t. CRM-M-48108-2022:-

“xx xx xx

i. It is submitted that as per statement of investigating officer the present FIR has been registered against five persons namely Jobanpreet Singh son of Gurwinder Singh, Gurwinder Singh son of Santokh Singh, Santokh Singh son of Beant Singh, Hira son of Prem Singh and Harjit Kaur wife of Gurwinder Singh i.e. petitioners no. 1 to 5.

ii. It is submitted that as per statement of investigating officer the present FIR, challan has not been presented against the above said accused persons.

iii. None of the accused has been declared as proclaimed person/offender in the present case.

iv. It is submitted that final report has not been presented so far, remand papers are pending.

v. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion.”

5. With respect to CRM-M-48149-2022 is concerned, the trial Court has recorded as follows:-

i. It is submitted that as per statement of investigating officer the present FIR has been registered against four persons namely Kulbir Singh son of Variam Singh, Komalpreet Singh son of Kulbir Singh, Dilbagh Singh son of Kulbir Singh and Balwinder Kaur wife of Kulbir Singh i.e. petitioners no. 1 to 4.

ii. It is submitted that as per statement of investigating officer the present FIR, challan has not been presented against the above said accused persons.

iii. None of the accused has been declared as proclaimed person/offender in the present case.

iv. It is submitted that final report has not been presented so far, remand papers are pending.

v. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion.”

6. Counsel appears for respondents in both the cases, admits the fact of parties having compromised and states that they have no objection in case the DDR/FIR and all proceedings subsequent thereto against the

petitioners are quashed.

7. Similarly learned State counsel has stated no objection in case the DDR/FIR is quashed based upon the compromise.

8. I have heard learned counsel for the parties and have carefully gone through the records of the case.

9. After considering judgment rendered by the Apex Court in **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 not affected 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.

10. 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/DDR/Cross case as :-

- (i) The present matter does not fall within the exceptions as carved out in **Laxmi Narayan's** case (supra).
- (ii) The offences 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 has entered into

compromise on his own volition.

11. Consequently, the petitions are allowed. DDR No.19 dated 01.07.2022, registered for the offences punishable under Sections 323, 324 and 34 of IPC at Police Station Qila Lal Singh, District Gurdaspur and FIR No. 57 dated 28.06.2022 for the offences punishable under Sections 323, 324, 148 and 149 of IPC, at Police Station Qila Lal Singh, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

12. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

04.09.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No