

CRM-M No.46224 of 2023 (O&M)
CRM-M No.46799 of 2023 (O&M)

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2023:PHHC:160929
2023:PHHC:160930

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

Date of decision : 13.12.2023

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CRM-M No.46224 of 2023 (O&M)

Sukhdev Singh

....Petitioner

Versus

State of Punjab & anr.

.....Respondents

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CRM-M No.46799 of 2023 (O&M)

Baldev Singh & ors.

....Petitioners

Versus

State of Punjab & anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ritu Raj Singh, Advocate
for the petitioner (CRM-M-46224-2023)
for respondent No.2 (CRM-M-46799-2023).

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Navraj Singh Mahal, Advocate
for the petitioners (CRM-M-46799-2023)
for respondent No.2 (CRM-M-46224-2023).

PANKAJ JAIN, J. (ORAL)

1 This order shall dispose off above mentioned two petitions. On
09.10.2023 the following order was passed :-

*“Petition bearing CRM-M No.46224 of 2023 has been moved
invoking jurisdiction of this Court under Section 482 Cr.P.C by the
petitioner seeking quashing of Cross Case G.D. No.21 dated 02.10.2018,*

registered under Sections 323, 451, 341 & 506 IPC at Police Station Kartarpur, District Jalandhar in case FIR No.197 dated 01.10.2018 registered for offences punishable under Sections 323, 324, 326, 34 IPC at Police Station Kartarpur, District Jalandhar along with all subsequent proceedings arising therefrom.

Petition bearing CRM-M No.46799 of 2023 has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioners seeking quashing of FIR No.197 dated 01.10.2018 registered for offences punishable under Sections 323, 324, 326, 34 IPC at Police Station Kartarpur, District Jalandhar along with all subsequent proceedings arising therefrom.

Learned counsels for petitioner(s) contend that present is a version and cross-version case and the matter already stands compromised vide compromise dated 07.08.2023 (Annexure P-4).

Notice of motion for 13.12.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Navraj Singh Mahal accepts notice on behalf of respondent No.2 in CRM-M-46224-2023 and Ms. Ritu Raj Singh, Advocate accepts notice on behalf of respondent No.2 in CRM-M-46799-2023. Both the counsels admit the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate/Illaq Magistrate on 20.10.2023. On their doing so, the learned Trial Court/Duty Magistrate/Illaq Magistrate 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 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 Duty Magistrate/Illaq Magistrate Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

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

2. Pursuant to the aforesaid order, report dated 18.11.2023 from Judicial Magistrate 1st Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(1). It is respectfully submitted that in CRM-M-46799- 2023 (O&M) there is only one person namely namely Sukhdev Singh arrayed as accused in this FIR. Accused Sukhdev Singh appeared before this court. In CRM-M-46224-2023 (O&M) three persons namely Baldev Singh, Kulwinder Kaur and Tirath Singh arrayed as accused in this FIR. Accused Baldev Singh appeared before this Court and recorded his statement. No challan was filed against accused Kulwinder Kaur and Tirath Singh and they both were summoned later under Section 319 of Cr.PC. Yet they had not appeared before the Court after summoning order, in the meanwhile, compromise has been effected between the parties and quashing petition was filed by the parties in Hon'ble High Court.

(2) It is respectfully submitted that in view of the statement given by the complainant, this Court is of the opinion that the compromise effected between the complainant and accused is genuine, voluntarily and without any coercion or undue influence.

(3) It is further respectfully submitted the statement of Retired Inspector Inderjit Singh (Investigating Officer) has been recorded, in which he has submitted that accused Sukhdev Singh and Baldev Singh are not proclaimed offender in this case and not involved in any other case.”

3. Learned counsel for both the parties admit the fact of parties having compromised and state that they have no objection in case the FIR

and all proceedings subsequent thereto are quashed.

4. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 07.08.2023 (Annexure P-4).

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

6. 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.

7. 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.*

8. Consequently, the petition is allowed. G.D. No.21 dated 02.10.2018, registered under Sections 323, 451, 341 & 506 IPC at Police Station Kartarpur, District Jalandhar in case FIR No.197 dated 01.10.2018 registered for offences punishable under Sections 323, 324, 326, 34 IPC at Police Station Kartarpur, District Jalandhar and FIR No.197 dated 01.10.2018 registered for offences punishable under Sections 323, 324, 326, 34 IPC at Police Station Kartarpur, District Jalandhar all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner(s).
9. Photocopy of this order be placed on the connected file.

13.12.2023
Pooja sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No