

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

286

CRM-M-48145-2023 (O&M)

Date of decision : 13.12.2023

MALKIAT SINGH AND ORS**....Petitioners**

Versus

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

Present : Ms. Amarjot Kaur, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. R.S.Brar, Advocate
for respondents No.2 & 3.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.209 dated 19.09.2022, registered for offences punishable under Sections 420, 120-B of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Baghapurana, Moga (Annexure P-1) on the basis of compromise.

2. On 25.09.2023, the following order was passed :

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioners seeking quashing of FIR No.209 dated 19.09.2022, registered for offences punishable under Sections 420, 120-B of IPC and under Section 13 Punjab Travel Professional (Regulation) Act, 2014 at Police Station Baghapurana, Moga (Annexure P-1) along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 04.07.2023 (Annexure P-2).

Notice of motion for 13.12.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. D.A.G., Haryana accepts notice on behalf of respondent No.1-State. Mr. Rajveer Singh, Advocate appears and accepts notice on behalf of respondent Nos.2 & 3 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before the learned Duty Magistrate/Illaq Magistrate on 12.10.2023. On their doing so, the learned 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 ”

3. Pursuant to the aforesaid order, report dated **10.11.2023** from Sub Divisional Judicial Magistrate, Baghapurana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. In his statement, complainant-respondent no.2 Harpawanjit Singh Brar son of Gurdev Singh Brar, resident of village Rajiana, Tehsil Baghapurana, District Moga stated that on his intimation, FIR No.209 dated 19.09.2022, under Sections 420,120-B of IPC and under Section 13

of Punjab Travel Professionals (Regulation) Act, P.S Baghapurana was registered against Malkiat Singh son of Gurbachan Singh, Rajvir Kaur wife of Gurwinder Singh, Gurwinder Singh son of Malkiat Singh, all residents of Patti Joga, village Rajiana, Tehsil Baghapurana, District Moga and Shingara Singh son of Avtar Singh, resident of village Sekha Khurd, Tehsil Baghapurana, District Moga. That now with the intervention of respectables of the society, both the parties have effected the compromise. This compromise is genuine, voluntarily and without any coercion or under influence. That he has no objection if the present FIR is quashed.

2. That in their separate statement, Malkiat Singh son of Gurbachan Singh and Rajvir Kaur wife of Gurwinder Singh, both residents of Patti Joga, village Rajiana, Tehsil Baghapurana, District Moga have stated that on initiation of Harpawanjit Singh Brar, aged about 54 years, son of Gurdev Singh Brar, resident of village Rajiana, Tehsil Baghapurana, District Moga, FIR No. 209 dated 19.09.2022, under Sections 420,120-B of IPC and under Section 13 of Punjab Travel Professionals (Regulation) Act, P.S Baghapurana was registered against them. That now with the intervention of respectables of the society, both the parties have effected compromise. This compromise is genuine, voluntarily and without any coercion or undue influence. That no other FIR has been registered against them. They have fulfilled all the conditions of the compromise. That they have not been declared as proclaimed offenders by any Court in any case so far.

3. That in his separate statement, Nachhattar Singh son of Sardara Singh, resident of village Ajitwal, District Moga has stated that he is general attorney of accused Gurwinder Singh son of Malkiat Singh, resident of Patti Joga, village Rajeana, Tehsil Baghapurana, District Moga and power of attorney has never been cancelled (Copy of general power of attorney attached). That on initiation of Harpawanjit Singh Brar, aged about 54 years, son of Gurdev Singh Brar, resident of village Rajiana, Tehsil Baghapurana, District Moga, FIR No. 209 dated 19.09.2022, under Sections 420,120-B of IPC and under Section 13 of Punjab Travel Professionals (Regulation) Act, P.S Baghapurana was registered against Gurwinder Singh and others. That now with the intervention of respectables of the society, both the parties have compromised. This compromise is genuine, voluntarily and without any coercion or undue

influence. That no other FIR has been registered against them. They have fulfilled all the conditions of the compromise. That they have not been declared as proclaimed offender by any Court in any case so far.

4. That in his separate statement, Harbans Singh son of Thana Singh, resident of village Sekha Khurd, Tehsil Baghapurana, District Moga has stated that he is special attorney of accused Shingara Singh son of Avtar Singh, resident of village Sekha Khurd and power of attorney has never been cancelled (Copy of special power of attorney attached). That on initiation of Harpawanjit Singh Brar, aged about 54 years, son of Gurdev Singh Brar, resident of village Rajiana, Tehsil Baghapurana, District Moga, FIR No. 209 dated 19.09.2022, under Sections 420,120-B of IPC and under Section 13 of Punjab Travel Professionals (Regulation) Act, P.S Baghapurana was registered against Gurwinder Singh and others. That now with the intervention of respectables of the society, both the parties have compromised. This compromise is genuine, voluntarily and without any coercion or undue influence. That no other FIR has been registered against them. They have fulfilled all the conditions of the compromise. That they have not been declared as proclaimed offender by any Court in any case so far.

5. That as per record and statement of SI Jatinder Singh, posted at Vigilance Bureau Unit Ferozepur, there are four accused persons in the present FIR namely Gurwinder Singh, Rajvir Kaur, Malkiat Singh and Shingara Singh and there is only one complainant/victim i.e. Harpawanjit Singh in this FIR. That as per the statement of SI Jatinder Singh, accused Gurwinder Singh has been declared Proclaimed Offender in case titled as "Chamkaur Singh Versus Gurwinder Singh CIS No. 129/2021 (complaint under Section 138 of N.L.Act)" and except accused Gurwinder Singh no other accused persons have been declared Proclaimed Offender in any case. It is further stated by SI Jatinder Singh that no other FIR is pending against the accused persons."

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 petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 04.07.2023 (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.209 dated 19.09.2022, registered for offences punishable under Sections 420, 120-B of IPC

and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Baghapurana, Moga (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

13.12.2023
Pooja sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No