

CRM-M No.50356 of 2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.50356 of 2022

Date of decision : 24.07.2023

Harbhajan Singh and Ors.

....Petitioners

Versus

State of Punjab and Anr.

....Respondents

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

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Present :- Mr. Vikas Gupta, Advocate for the petitioners.

Mr. Amit Shukla, Asst. A.G., Punjab.

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

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**PANKAJ JAIN, J. (ORAL)**

1. By way of present petition, the petitioner is seeking quashing of FIR No.93 dated 30.03.2006 under Sections 419,420,467,468,471,120-B IPC registered at P.S Civil Lines, District Amritsar on the basis of compromise dated 03.10.2022 (Annexure P-3).

2. On 23.11.2022, the following order was passed :

*“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are facing trial in FIR No.93 dated 30.03.2016, registered for offences punishable under Sections 419/420/464/468/471/120-B of the Indian Penal Code, at Police Station Civil Lines, District Amritsar which has resulted in an order of acquittal before the trial Court but is pending in appeal before the Additional Sessions Judge, Tarn Taran in CRA-64-2018 titled as 'State of Punjab Vs. Harbhajan Singh & ors.' for 29.11.2022 on the basis of compromise dated 03.10.2022 (Annexure P-3). He has relied*

*upon Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322.*

*Notice of motion for 12.04.2023.*

*On the asking of the Court, Mr. Madhur Sharma, AAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Vikasdeep Singh, 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 petitioners as well as respondent No.2 are directed to appear before the appellate Court on 29.11.2022. On their doing so, appellate 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 appellate 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 from Addl. District & Sessions Judge, Tarn Taran dated 15.05.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ xxxxx

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1. *Originally FIR was registered against three persons namely Harbhajan Singh son of Sardara Singh resident of Village Rashiana, Tehsil & District Tarn Taran, Kulwant Singh son of Pritam Singh resident of Village Kalan, Tehsil & District Tarn Taran and Amar Singh son of Puran Singh resident of Village Kalan, Tehsil & District Tarn Taran. Later on vide order dated 17.04.2014 passed by the Court of Shri Avtar Singh Barda, the then ACJM, Tarn Taran, on an application u/s 319 Cr.P.C two more accused namely Sartaj Singh and Swaraj Singh, both sons of Harbhajan Singh son of Sardara Singh resident of Village Rashiana, Tehsil & District Tarn Taran were named in this case.*

2. *None of the accused is proclaimed offender.*

3. *The compromise is genuine, voluntary and without any coercion or undue influence.*

4. *As per the statement of accused themselves, one FIR No.169/2005 u/s 420/467/468/471 IPC P.S City Tarn Taran is pending against Harbhajan Singh son of Sardara Singh resident of Village Rashiana, Tehsil & District Tarn Taran as well as Sartaj Singh and Swaraj Singh, both sons of Harbhajan Singh son of Sardara Singh resident of Village Rashiana, Tehsil & District Tarn Taran. The complainant in that case is also same person I.e Kamaljit Singh son of Gurmukh Singh. But the matter in that case has also been compromised and quashing proceedings are pending before Hon'ble Punjab & Haryana*

CRM-M No.50356 of 2022

#4#

*High Court in CRM-M-56685-2022. However, no case is pending against Kulwant Singh son of Pritam Singh.*

5. *As per the statement of Investigating Officer, Kamaljit Singh son of Gurmukh Singh is the only complainant/victim in this case.”*

4. 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.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 03.10.2022 (Annexure P-3).

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

7. 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.*

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).
- (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.

9. Consequently, the petition is allowed. FIR No.93 dated 30.03.2006 under Sections 419,420,467,468,471,120-B IPC registered at P.S Civil Lines,

CRM-M No.50356 of 2022

#6#

District Amritsar on the basis of compromise dated 03.10.2022 (Annexure P-3)  
and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

**July 24, 2023**  
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**(PANKAJ JAIN)**  
**JUDGE**

Whether speaking/reasoned Yes

Whether Reportable : No