

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

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**CRM-M No. 52157-2022
Date of decision : 27.07.2023**

Gurdial Singh and anr.

....Petitioners

Versus

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amit Arora, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Jagjeet Singh, Advocate for
Mr. P. S. Kanwar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No 59 dated 25.08.2016 registered for the offences punishable under Sections 341, 342, 323, 295 and 34 of the Indian Penal Code at Police Station Sarhali, District Tarn Taran on the basis of compromise dated 25.03.2022 (Annexure P-2).

On 16.11.2022, the following order was passed :

“Through this petition, the petitioners seek quashing of FIR No.59 dated 25.08.2016, registered under Sections 341, 342, 323, 295 and 34 IPC and sections 25 and 27 of the Arms Act, along with all the subsequent proceedings arising therefrom, on the basis of compromise dated 25.03.2022 (Annexure P-2).

Learned counsel for the petitioners submits that with the intervention of respectables, the compromise has been effected between the parties and they have decided to bury the hatchet

enabling them to live with peace and harmony. He further submits that one of co-accused, namely, Sital Singh, has since expired, as would decipher from the death certificate dated 17.09.2021 (Annexure P-3).

Notice of motion.

On the asking of this Court, Mr. Harkanwar Jeet Singh, AAG Punjab, accepts notice on behalf of respondent No.1-State.

Ms. Jyoti Kaur, Advocate appears and files memorandum of appearance on behalf of complainant/respondent No.2 and does not dispute the factum of the compromise.

In view of the above, the parties are directed to appear before the Illaqa Magistrate/trial Court on 01.12.2022 or any other date convenient to the Court concerned for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1 The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2 the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. If the compromise is genuine, voluntary and out of free will of the parties;*

Report of the Illaqa Magistrate/trial Court be awaited for 08.03.2023. ”

Pursuant to the aforesaid order, report from the Judicial Magistrate 1st Class, Tarn Taran dated 06.12.2022 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In view thereof, the report is submitted as follows:

- 1. As per the statement of 10 ASI Gurpreet singh 1046/TT, there are*

three persons arraigned as accused in this FIR, however accused Sheetal Singh died on 12.09.2022, accused Gurlal Singh had gone abroad, however Gurbaj Singh S/o Charan Singh appeared on behalf of him through special power of attorney.

2. As per the statement of 10 ASI Gurpreet singh 1046/TT, the name of complainant is Baldev Singh S/o Ajit Singh. He is the only injured/aggrieved person in this FIR and he is appeared in the court to make his statement in support of compromise.

3. As per the statement of 10 ASI Gurpreet singh 1046/TT, Challan in this case was presented on 22.02.2018 and now the trial is at the stage of prosecution evidence

4. As per the statements of both the parties and IO ASI Gurpreet singh 1046/TT, the compromise is genuine, voluntarily and out of free will and there is no pressure, threat or coercion upon the victim/complainant.”

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 petitioners are quashed.

Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 25.03.2022 (Annexure P-1).

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

8. 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.

9. 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.

10. Consequently, the petition is allowed. FIR No. 59 dated 25.08.2016 registered for the offences punishable under Sections 341, 342, 323, 295 and 34 of the Indian Penal Code at Police Station Sarhali, District Tarn Taran and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

27.07.2023
Mehak

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No