

CRM-M No.56685 of 2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.56685 of 2022

Date of decision : 24.07.2023

Sartaj Singh and Ors.

....Petitioners

Versus

State of Punjab and Anr.

....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

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

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

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.169 dated 21.06.2005 under Sections 420,467,468,471,120-B IPC registered at P.S City Tarn Taran, District Tarn Taran on the basis of compromise dated 03.10.2022 (Annexure P-3).

2. On 12.04.2023, the following order was passed :

“Prayer in this petition is for quashing of FIR No.169 dated 21.06.2005, registered under Sections 420, 467, 468, 471, 120-B IPC, at Police Station City Tarn Taran, District Tarn Taran and all consequential proceedings arising therefrom on the basis of compromise dated 03.10.2022 (Annexure P-3) having been arrived at between the parties.

The petitioners were tried for the offences alleged to have been committed by them and vide judgment dated 14.02.2018 (Annexure P-2) they were acquitted. The appeal is stated to be pending before the Court of learned Addl. Sessions Judge, Tarn

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Taran. In the meantime, the parties arrived at a compromise on 03.10.2022 (Annexure P-3).

Learned counsel for the petitioners in support of his contentions relies upon the judgment of the Hon'ble Apex Court in Ram Gopal and another vs. State of Madhya Pradesh, 2021 (4) R.C.R. (Criminal) 322.

Notice of motion.

On the asking of the Court, Mr. Ravinder Singh, AAG, Punjab and Mr. Raghav Soni, Advocate, who are present in Court, accept notice on behalf of respondents No.1 and 2 respectively. Learned counsel for respondent No.2 admits to the factum of compromise arrived at between the parties. He is directed to file power of attorney on the next date of hearing.

List on 24.07.2023

In the meantime, the parties are directed to appear before the trial Court/Area Magistrate for recording of their statements with regard to compromise/settlement on 22.05.2023 or any other convenient date to the Court.

The trial Court/Area Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons arrayed as accused in 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 FIR 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.

3. Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Tarn Taran dated 31.05.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ xxxx

xxxxx

xxxxxxx

1. As per the statement of parties and investigating officer, the present FIR was got registered by complainant Kamaljit Singh s/o Gurmukh Singh r/o Village Jodhpur, Tehsil & District Tarn Taran against eight accused persons namely (1) Sartaj Singh, (2) Sawraj Singh, (3) Harbhyajan Singh, (4) Kulwant Singh, (5) Vikram Sharma (6) Rajinder Kumar, (7) Davinder Singh and (8) Dharminder Singh.

2. As per statement of parties and investigating officer, accused Dharminder Singh s/o Daya Singh r/o Village Raishiana, Tehsil and District Tarn Taran was declared proclaimed offender by the Court. Except him, none of accused was declared proclaimed offender in this FIR.

3. The parties suffered their statements voluntarily, with their free Will, without any pressure, threat or coercion before the Court to the effect that they have compromised their dispute with the intervention of respectable of locality, which seems to be genuine.

4. As per statement of parties and investigating officer, accused Kulwant Singh, Vikram Sharma, Rajinder Kumar and Davinder Singh are not involved in any FIR. However, complainant Kamaljit Singh have also got registered another FIR No.93/2006 u/s 419,420,467,468,471,120-B of IPC at Police Station Civil Line, Amritsar against accused Harbhajan Singh, Sartaj Singh and Sawraj Singh in which they were acquitted by the Court of Shri Sumit Bhalla, the then Ld. Chief

Judicial Magistrate, Tarn Taran vide Judgment dt 14.02.2018.

Appeal regarding the same is pending in the Hon'ble Court of Shri Rakesh Kumar Sharma, Ld. Additional Sessions Judge, Tarn Taran and the quashing petition regarding the same is also pending before the Hon'ble High Court for 24.07.2023. Except present FIR and above said FIR No.93/2006, accused Harbhajan Singh, Sartaj Singhy and Sawraj Singh are not involved in any FIR.

5. As per the statement of Investigating Officer, except complainant Kamaljit Singh s/o Gurmukh Singh r/o Village Jodhpur, Tehsil and District Tarn Taran, no other complainant or victim is involved in this FIR.

Report submitted for kind perusal”

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 :-

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(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.169 dated 21.06.2005 under Sections 420,467,468,471,120-B IPC registered at P.S City Tarn Taran, District Tarn Taran 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