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

284

CRM-M-44582-2019

Date of decision : 22.11.2023

Angrej Singh and others**..... Petitioners****versus****State of Punjab and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Vinod Pundir, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.33 dated 28.06.2018, registered for offences punishable under Sections 379-B, 506 and 34 of IPC, at Police Station Kotli Surat Malian, District Batala on the basis of compromise dated 24.09.2019 (Annexure P-2).

2. On 28.10.2022, 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.33 dated 28.06.2018, registered for offences punishable under Sections 379-B, 506 and 34 of IPC, at Police Station Kotli Surat Malian, District Batala.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 24.09.2019 (Annexure P-2).

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Mr. A.S. Bhatti, Advocate appears for respondents No.2 and 3 admits the fact of their being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **14.11.2022.**

On their doing so, the learned Illaqa Magistrate/trial 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.

List on **14.02.2023.**

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 Illaqa Magistrate/trial 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 22.11.2022 from

Addl. Sessions Judge, Gurdaspur has been received, which is taken on

record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Both the parties appeared before the Court of undersigned. Complainant Guddu Kumar suffered a statement (Annexure P1), wherein, he stated that he is complainant/victim in case FIR No. 33 dated 28.06.2018 u/s 379-B, 506, 34 IPC registered at police station Kotli Surat Malhi. He had entered into a compromise with accused persons namely Sarabjit Singh son of Bachan Singh, Sunil Masih @ Sonu son of Dana Masih, both residents of Shikar Machhian, Tehsil Dera Baba Nanak, District Gurdaspur and Angrej Singh son of Sucha Singh, resident of Village Dharowali, Tehsil Dera Baba Nanak, District Gurdaspur without any coercion, pressure or undue influence with his own sweat will. The compromise between them is genuine and has been effected voluntarily. He has placed on record the copy of his aadhar card. The copy of his aadhar Card is Annexure-C. Similarly eye witness Pappu Kumar also got recorded a separate statement (Annexure P2) respectively that he is victim in above stated case. He had entered into a compromise with accused persons namely Sarabjit Singh son of Bachan Singh, Sunil Masih @ Sonu son of Dana Masih, both residents of Shikar Machhian, Tehsil Dera Baba Nanak, District Gurdaspur and Angrej Singh son of Sucha Singh, resident of Village Dharowali, Tehsil Dera Baba Nanak, District Gurdaspur without any coercion, pressure or undue influence with his own sweat will. The compromise between them is genuine and has been effected voluntarily. He has placed on record the copy of his aadhar card. The copy of his aadhar Card is Annexure-D. Complainant Guddu Kumar and eye

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witness Pappu Kumar were identified by Sh. Nikhil Kumar, Advocate.

Similarly, accused Sunil Masih son of Dana Masih, Sarabjit Singh son of Bachan Singh and Angrej Singh son of Sucha Singh have also got recorded a separate statements (Annexure P3 to Annexure P5), wherein, they stated that they had entered into a compromise with complainant and same has been executed between them and complainant party without any coercion, pressure or undue influence. They have placed on record the copy of their aadhar card. The copy of aadhar card of accused Sunil Masih is Annexure B, accused Sarabjit Singh is Annexure C and accused Angrej Singh is Annexure A. Accused persons namely Sunil Masih son of Dana Masih, Sarabjit Singh son of Bachan Singh and Angrej Singh son of Sucha Singh were identified by Sh. Manoj Loomba, Advocate.

Similarly, the investigating officer SI Mukhdev Singh (now retired) son of S. Gurbax Singh, VPO Dalle Chack, District Gurdaspur appeared and suffered a separate statement that he is investigating officer of the case of FIR No. 33 dated 28.06.2018 u/s 379-B, 506, 34 IPC registered at police station Kotli Surat Malhi. In this case there are three accused namely Sarabjit Singh son of Bachan Singh, Sunil Masih @ Sonu and Angrej Singh son of Sucha Singh. The complainant/victim in this case is Guddu Kumar son of Manoj Kumar and one more victim was Pappu Kumar son of Manoj Kumar. Accused are not involved in any other case. No accused has been declared as proclaimed offender till date. He has identified all three accused persons as well as complainant/victims in the court.

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From the aforesaid statements, it seems that the compromise has been validly arrived at between the parties and same is without any inducement, threat or coercion from any quarter and is genuine. It is further submitted that there were total three accused persons involved in this FIR. Neither any person has been declared proclaimed offender in the present case nor they are involved in any other case as well. There are only one complainant Guddu Kumar and one victim Pappu Kumar in the present case.

From the statements of parties, it seems that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence from any side.”

4. Mr. Vinod Pundir, Advocate appears for respondents No.2 & 3 and 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. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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)***

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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 :-

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- (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.33 dated 28.06.2018, registered for offences punishable under Sections 379-B, 506 and 34 of IPC, at Police Station Kotli Surat Malian, District Batala and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

22.11.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No