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

**CRM-M-52574-2022
Date of decision : 09.10.2023**

SUKHWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ramesh Sharma, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. B.S. Jaswal, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.61 dated 22.05.2009, registered for offences punishable under Sections 323, 325, 326, 307 and 34 of IPC, at Police Station Bholath, District Kapurthala, (Annexure P-1) on the basis of compromise.

2. On 04.08.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.61 dated 22.05.2009, registered for offences punishable under Sections 323, 325, 326, 307 and 34 of IPC, at Police Station Bholath, District Kapurthala and all subsequent proceedings arising thereto on the basis of compromise.

Short reply dated 31.07.2023 by way of affidavit of Sukhninder Singh, PPS, Deputy Superintendent of Police, Sub-Division Bholath, Kapurthala has been filed on behalf of the

respondent No.1-State of Punjab in the Court today, the same is taken on record. Copy thereof has been supplied to the counsel opposite.

As per reply, offence punishable under Section 307 IPC now stands deleted.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise deed dated 18.10.2022 (Annexure P-2).

The parties are directed to appear before learned Illaqa Magistrate/trial Court on 28.08.2023 with respect to the compromise and on their doing so, the learned Illaqa Magistrate/trial Court/Duty 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 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 learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 09.10.2023. ”

3. Pursuant to the aforesaid order, report from SDJM, Bholath dated 28.09.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “1. That **02 persons arrayed as accused in present FIR.**
2. That **no accused are declared PO in this case.**

3. That compromise effected between **complainant Satnam Singh Singh and accused Sukhwinder Singh** is genuine, voluntary and without any coercion or undue influence.
4. That **accused persons of this case are not involved in any other case.**
5. That **there is one victim/complainant in the present FIR.”**

4. Ld. Counsel appearing for respondent2 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 are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.61 dated 22.05.2009, registered for offences punishable under Sections 323, 325, 326, 307 and 34 of IPC, at Police Station Bholath, District Kapurthala, (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

October 09, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No