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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.49916 of 2023
Date of decision :20.12.2023**

Mukesh Kumar

....Petitioner

Versus

State of Haryana and anr.

.....Respondents**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN*********Present : Mr. Amrainder Singh, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Jasneet Mehra, Advocate
for respondent No.2.*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.216 dated 24.08.2023 under Sections 406, 420 of IPC and Section 10 of the Immigration Act, registered at Police Station, Sadhaura, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 04.10.2023, the following order was passed:

“Present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.216 dated 24.08.2023 under Sections 406, 420 of IPC and Section 10 of the Immigration Act, registered at Police Station, Sadhaura, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated

09.09.2023 (Annexure P-2), which is stated to have been effected between the parties.

Notice of motion.

Learned State counsel, on service of advance copy of the petition, appears and accepts notice on behalf of respondent-State of Haryana.

Ms. Jasneet, Advocate appears and accepts notice on behalf of respondent No.2 and admits the factum of compromise.

Post it on 20.12.2023.

Parties are directed to appear before the Illaqa Magistrate/trial Court in the meantime for recording their respective statement with regard to the compromise on or before the date fixed.

A report with regard to veracity of the compromise be furnished to this Court on or before the next date.”

3 Pursuant to the aforesaid order, report dated 14.12.2023 from Judicial Magistrate 1st Class, Sub Division Bilaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that parties did not appear before the Court on dates so fixed for appearance of parties i.e. 20.12.2023, 26.10.2023, 31.10.2023, 07.11.2023, 17.11.2023, 21.11.2023, 28.11.2023, 08.12.2023. Thereafter, the undersigned has sent a letter to the Hon’ble High Court of Punjab and Haryana High Court, Chandigarh, bearing No.705 dated 11.12.2023, intimating therein that the parties did not appear before the Court upto 08.12.2023. However, today i.e. on 13.12.2023, an application has been moved on behalf of parties through their counsel for recording their statements. Accordingly, statements of Complainant Ram Kumar son of Om Parkash, Resident of Village Laharpur, District Yamuna Nagar and Mukesh Kumar (accused) son of Pitamber Singh, Resident of House No.1711, HBC Sector-6, Karnal recorded. Separate statement of Investigation officer Shri Ranbir Singh, No.884/YNR, Police

Station Sadhaura, also recorded.

Complainant Ram Kumar who has been duly identified by his counsel, suffered statement to the effect that in the present case, matter has been compromised with the accused with intervention of the respectables of the society and members of the family with a view to secure peaceful life for both the parties. The compromise has been arrived at with free consent of both the parties and without any undue influence and pressure of any side. He have no objection of the aforesaid FIR is quashed on the basis of compromise.

Similarly, accused Mukesh Kumar has been duly identified by his counsel and suffered statement to the effect that in the present FIR, matter has been compromised between the parties with the intervention of the respectable persons of the society and members of the family with a view to secure peaceful life for both the parties. The compromise has been arrived at with free consent of both the parties and without any undue influence and pressure for any side. He prayed that on the basis of the compromise, the proceedings of the aforesaid criminal case may please be quashed.

Shri Ranbir Singh, SI, No.884/YNR, PS Sadhaura, Investigating Officer of this case appeared before the Court and suffered a statement to the effect that the present FIR No.216 dated 24.08.2023 was got registered by complainant Ram Kumar against accused Mukesh Kumar and except the above accused, no other person is arrayed as accused in the instant FIR. Further, there is no other person cited as complainant except the complainant Ram Kumar. He further stated that neither accused is declared proclaimed person nor involved in any other criminal case”.

4 Learned counsel for respondents 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 (Annexure P-2).

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 of the Code to quash proceeding 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) 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 wise 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 :-

- (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.216 dated 24.08.2023 under Sections 406, 420 of IPC and Section 10 of the Immigration Act, registered at Police Station, Sadhaura, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 09.09.2023 (Annexure P-2), is, hereby, quashed *qua* the petitioner.

20.12.2023
spn

(PANKAJ JAIN)
JUDGE

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