

CRM-M-49918-2023
CRM-M-49942-2023

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2023:PHHC:140441

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

Date of Decision : 03.11.2023

CRM-M-49918-2023

Lakhwinder Singh and others	Versus	Petitioners
State of Punjab and others		Respondents

CRM-M-49942-2023

Hardeep Singh @ Sonu and another	Versus	Petitioners
State of Punjab and others		Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vishnu Dutt, Advocate
for the petitioners in CRM-M-49918-2023 and
for the private respondents in CRM-M-49942-2023.

Mr. Naveen Bawa, Advocate
for the petitioners in CRM-M-49942-2023 and
for the private respondents in CRM-M-49918-2023.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

These are two petitions filed under Section 482 Cr.P.C. arising out of version and cross-version. The petitioners herein are praying for quashing of FIR No.29 dated 02.3.2019 under Sections 326/323/148/149 IPC, 1860 and GD No.27 dated 16.4.2019 under Sections 341/323/506/148/149 IPC, 1860 registered at Police Station Raja Sansi, District Amritsar along with all subsequent proceedings arising therefrom.

2. On 4th of October, 2023 following order was passed :

“1. These two petitions under Section 482 Cr.P.C. are filed for quashing of FIR No.29 dated 2.3.2019 under Sections 326/323/148/149 IPC, 1860 and GD No. 27 dated 16.4.2019 under Sections 341/323/506/148/149 IPC, 1860 registered at Police Station Raja Sansi, District Amritsar and all other subsequent proceedings arising therefrom a on the basis of compromise dated 4.9.2023.

2. Notice of motion.

3. Learned State Counsel and Mr. Vishnu Dutt, Advocate and Mr. Naveen Bawa, Advocate appearing on advance notice accept the same on behalf of State and private respondents respectively.

4. The parties are directed to appear before the Illaqa Magistrate/trial court for recording their statements with regard to the compromise on or before 20th October, 2023.

5. The trial court 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 the FIR/complaint;

2. Whether any accused is declared as proclaimed offender;

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

6. List on 3rd November, 2023.

7. A photocopy of this order be placed on the file(s) of connected case(s).”

3. Pursuant to the aforesaid order, reports from SDJM, Ajnala dated 25.10.2023 (in both cases) have been received, which is taken on record. As per the report, the Trial Court has recorded as follows :-

in CRM-M-49918-2023

“1). In the present case there are four persons namely Lakhwinder Singh son of Ajit Singh, Kuldeep Singh son of Joginder Singh, Arjan Singh son of Joginder Singh and

Mandeep Singh @ Manu son of Sawinder Singh arrayed as accused in the present GD, as per statement of statement of IO and accused persons.

2) As per statement of accused and IO, accused persons have not been declared as proclaimed offender.

3) As per the statement of the parties, the compromise is genuine, voluntary and without any coercion or undue influence.”

in CRM-M-49942-2023

“1). In the present case there are two persons namely Hrdeep Singh @ Sonu son of Mahinder Singh, Sarabjit Singh son of Mahinder Singh arrayed as accused in the present FIR, as per statement of statement of IO and accused persons.

2) As per statement of accused and IO, accused persons have not been declared as proclaimed offender.

3) As per the statement of the parties, the compromise is genuine, voluntary and without any coercion or undue influence.”

4. Since, it is a case of version and cross-version, the counsel who is representing the petitioners in one case, also represents private respondents in cross-version case. Both counsels admit the fact of parties having compromised and state that they have no objection in case the FIR as well as GD and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR and GD are 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 matters do 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 petitions are allowed. FIR No.29 dated 02.3.2019 under Sections 326/323/148/149 IPC, 1860 and GD No. 27 dated 16.4.2019 under Sections 341/323/506/148/149 IPC, 1860 registered at

Police Station Raja Sansi, District Amritsar and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

10. A copy of this order be kept on the file of other connected case.

November 03, 2023
Dpr (PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No