

253 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52527-2022
Decided on : 15.02.2023

Raj Kumar @ Raju

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Jain, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. Shubham Jain, Advocate
for the complainant-respondent No.2.

Manjari Nehru Kaul, J.(Oral)

The petitioner is seeking quashing of FIR No.139 dated 25.04.2019 under Sections 392 and 397 IPC and 25 of Arms Act registered at Police Station Bhuna District Fatehabad and all other subsequent proceedings arising therefrom on the basis of a compromise dated 29.10.2022 (Annexure P-3) arrived at between him and the complainant-respondent No.2.

Learned counsel for the petitioner submits that subsequent to the lodging of the FIR in question, with the intervention of respectables, the parties had amicably resolved their dispute and decided to put to rest the criminal case pending between them. Hence, the continuation of criminal proceedings would be a futile exercise.

Learned counsel for the complainant-respondent No.2 has not

disputed the submissions made by counsel opposite with respect to the compromise effected between the parties and has also not opposed the prayer for quashing of the FIR in question.

Vide order dated 16.01.2023 passed by the Coordinate Bench of this Court, parties had been directed to appear before trial Court/Illaqa Magistrate on or before 31.01.2023 to get their statements recorded with regard to the compromise arrived at between them.

Report dated 08.02.2023 has since been received from the learned Addl. District and Sessions Judge, Fatehabad in pursuance of the directions of this Court. As per the report, compromise has indeed been effected between the parties and the same is without any pressure or coercion and out of their free will. The trial Court has annexed the statements of the parties in original alongwith its report.

Learned State counsel has, however, vehemently opposed the prayer and submissions made by counsel appearing for the parties for quashing of the FIR in question on the basis of compromise effected between them. Learned State counsel on instructions has apprised the Court that the petitioner is a man of criminal antecedents as there are as many as 35 criminal cases registered against him, out of which he stands convicted in 15. It has been submitted that even in the case in hand, there are serious allegations of robbery and extortion levelled against the petitioner. Hence, in the circumstances, the possibility of the petitioner pressurizing and exercising undue influence over the complainant to withdraw the instant case against him, cannot be ruled out. Learned State counsel has still further submitted that as many as four persons were named and challaned in

the present case, by the police to face trial, however, the compromise had been effected only with one out of the four accused, which could not be permitted.

Heard learned counsel for the parties and perused the relevant material available on record.

In the instant case, the FIR in question was registered against four persons including the petitioner. However, only the petitioner has approached this Court seeking quashing of the FIR in question. A perusal of the allegations levelled in the FIR (Annexure P-1) reveals that there are serious allegations against all the accused including the petitioner of extending threats of dire consequences and robbing the complainant at gunpoint. Apart from this, this Court cannot lose sight of fact that the petitioner is a history-sheeter and there are as many as 35 criminal cases registered against him, out of which he stands convicted in 15 cases.

It needs to be emphasized here that the offences allegedly committed by the accused including the petitioner are grave offences, which without a doubt, impact the society at large.

Once a criminal case is declared to be non-compoundable under Section 320 Cr.PC it would be against public policy to quash an FIR on the basis of a compromise as the agreement effected, if any, would be wholly void in law. The law stands settled by the Hon'ble Supreme Court in catena of cases that offences which shock the very conscience of the society should not be quashed on the basis of a compromise. Needless to add that quashing of FIRs in heinous offences would run contrary to the intent of the legislature.

The Hon'ble Supreme Court in ***Daxaben vs. The State of Gujarat and others, 2022 SCC Online SC 936*** while dealing with the quashing of FIRs and consequential proceedings, on the basis of compromise has sternly warned against the dangers of putting a legal stamp on such like compromises. It would be pertinent to reproduce the following observations of the Apex Court in Daxaben's case(supra):

*39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, bride- burning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498- A, 304-B etc. incorporated in the **IPC** as a deterrent, with a specific social purpose.*

Further more, learned counsel for the parties have failed to satisfy this Court as to how the FIR in question could be quashed qua the petitioner to the exclusion of the other accused, who too have been attributed identical roles in the crime in question. As already observed hereinabove, out of the four accused named in the FIR, only the petitioner has invoked the jurisdiction of this Court under Section 482 Cr.PC for quashing of the FIR on the basis of compromise arrived at between the parties.

This Court in ***Yatin @ Mithu and another vs. State of***

Haryana and another (CRM-M-7450-2022) decided on 13.01.2023 has held as under:

“This Court has no hesitation in observing that a danger indeed runs in quashing such FIRs including partial quashing on the basis of a compromise where all the accused have been attributed identical roles, and some of the accused have been able to enter into a compromise with the complainant by either pressurizing him or exercising undue influence or coercion. It cannot be over emphasized that there could be cases where the accused/offenders holding influential positions or being in a sound financial position would go scot free, and on the other hand, an accused, who may not be able to influence the complainant or induce him to effect a compromise would be left to face trial.

Another scenario could be and which has been coming to the notice of this Court is that an accused, who has been attributed the main role in the crime in question, has compromised the matter with the complainant, whereas the other accused named in the FIR and in some cases not even named but nominated pursuant to a disclosure statement and still further, attributed only minor role(s) in the crime in question had been left to face trial on account of no compromise effected between him/them and the complainant. Without doubt, this would run contrary to securing the ends of justice and the spirit of compromise, and thereby rendering the social and legal purpose behind Section 482 Cr.PC nugatory.”

No doubt, the powers of this Court under Section 482 Cr.PC are very wide but they are certainly not unbridled. This Court in the wake

of the allegations levelled in the FIR (Annexure P-1) and the criminal antecedents of the petitioner would thus, loathe to partially quash the FIR in question qua the petitioner, on the basis of the compromise (Annexure P-3) effected between the parties.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

15.02.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No