

288 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.50984 of 2023 (O&M)
Date of decision : 13.12.2023

Gurcharan Singh & ors.

....Petitioners

Versus

State of Punjab & ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kuldip Singh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Prince Pasricha, Advocate for
Mr. Nitish, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing the rapat/GD No.32 dated 15.09.2023 registered under Sections 324/323/148/149 IPC (Section 326 IPC added later on) at Police Station Sadar Ferozepur, District Ferozepur in FIR No.157 dated 13.09.2023, registered for offences punishable under Sections 324/323/148/149 IPC, at Police Station Sadar Ferozepur, District Ferozepur on the basis of compromise.

2. On 09.10.2023, 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

the rapat/GD No.32 dated 15.09.2023 registered under Sections 324/323/148/149 IPC (Section 326 IPC added later on) at Police Station Sadar Ferozepur, District Ferozepur in FIR No.157 dated 13.09.2023, registered for offences punishable under Sections 324/323/148/149 IPC, at Police Station Sadar Ferozepur, District Ferozepur.

Learned counsel for the petitioners contends that the matter already stands compromised vide Annexure P-3.

Notice of motion for 13.12.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Nitish S.Vikrant Vij, Advocate appears and accepts notice on behalf of respondents No.2 to 4 and admits the fact of there being a compromise between the parties.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 19.10.2023. On their doing so, the learned Duty Magistrate/Illaq 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.*

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 Duty Magistrate/Illaq 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 14.11.2023 from Addl. Chief Judicial Magistrate, Ferozepur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“The para wise report FIR is submitted as under :-

(i) (a) That FIR No. 157 dated 13.09.2023 was registered under Sections 323/324/148/149 IPC(Section 326 IPC added later on) at police station Sadar, Ferozepur against five persons namely Darshan Singh son of Bhan Singh, Malkit Singh son of Darshan Singh, Amarjit Singh son of Darshan Singh, Major Singh son of Joginder Singh and Sarwan Singh son of Gurdev Singh.

(b) That rapat/GD No.32 dated 15.09.2023 was registered under Sections 324/323/148/149 IPC (Section 326 IPC added later on) at police station Sadar, Ferozepur in FIR No.157 dated 13.09.2023 against seven persons namely Gurcharan Singh son of Bhan Singh, Amrik Singh son of Gurcharan Singh, Swaran Singh son of Gurcharan Singh, Jasbir Singh son of Jangir Singh, Major Singh son of Balihar Singh, Sukhdev Singh son of Tara Singh and Surinder Singh son of Darshan Singh

(ii) (a) Out of five accused in FIR No.157 dated 13.09.2023 no accused has ever been declared as proclaimed offender. **However, they have not filed petition under Section 482 Cr.P.C for quashing of the FIR.**

(b) Out of seven accused in Rapat/GD No.32 dated 15.9.23 in FIR No.157 dated 13.09.2023 no accused has ever been declared as proclaimed offender. **They are petitioners in CRM-M-50984-2023 under Section 482 Cr.P.C.**

(iii) The compromise effected between the parties is genuine, voluntary and without any coercion or undue influence

(iv) (a) No accused person in FIR No.157 dated 13.9.2023 has ever been involved in any other case.

(b) No accused person in Rapat/GD No.32 dated 15.9.23 in FIR No.157 dated 13.09.2023 has ever been involved in any other case.

(v) (a) As per the statement of Investigating Officer, there is one complainant-cum-injured namely Swaran Singh son of Gurcharan Singh and there are two more injured namely Surinder Singh son of Darshan Singh and Jasbir Singh son of Jangir Singh in FIR No. 157 dated 13.09.2023.

(b) As per statement of Investigating Officer, There is one complainant cum injured namely Darshan Singh son of Bhan Singh and there are two more injured namely Amarjit Singh and Malkeet Singh in rapat/GD No.32 dated 15.09.2023 in FIR No.157 dated 13.09.2023.”

4. Learned counsel for respondents No.2 to 4 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. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 18.09.2023 (Annexure P-3).

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) 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 :-

- (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. Rapat/GD No.32 dated 15.09.2023 registered under Sections 324/323/148/149 IPC (Section 326 IPC added later on) at Police Station Sadar Ferozepur, District Ferozepur in FIR No.157 dated 13.09.2023, registered for offences punishable under Sections 324/323/148/149 IPC, at Police Station Sadar Ferozepur, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

13.12.2023
Pooja sharma-I

(PANKAJ JAIN)
JUDGE

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