

289 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.51050 of 2023 (O&M)
Date of decision : 13.12.2023

Bhupinder Singh @ Bhinda & ors.

....Petitioners

Versus

State of Punjab & ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Abhishek Thakur, Advocate for
Mr. Hardik Ahluwalia, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab

Mr. Amandeep Sharma, Advocate
for respondents No.2 to 6.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.58 dated 02.07.2017, registered for offences punishable under Sections 323/506/148/149 IPC, at Police Station Fattu DHINGA, District Kapurthala 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 of FIR No.58 dated 02.07.2017, registered for offences punishable under Sections 323/506/148/149 IPC, at Police Station Fattu DHINGA, District Kapurthala.

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. Amandeep Sharma,

Advocate appears and accepts notice on behalf of respondent No.2 to 6 and admits the fact of there being a compromise between the parties. Counsel to file his power of attorney on the next date of hearing.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaqa Magistrate/trial Court on 19.10.2023. On their doing so, the learned Duty Magistrate/Illaqa 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/Illaqa 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 04.12.2023 from Sub Divisional Judicial Magistrate, Sultanpur Lodhi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is pertinent to mention here that petitioner/accused Manjinder Singh @ Kala and Charanjit Singh @ Sai did not turn up in the Court to suffer their statements in support of compromise. Moreover, petitioner/accused Swaran Singh has since died on 07.04.2023.

(i) As per statement of investigating officer, 9 persons namely petitioners/accused Bhupinder Singh @ Bhinda son of Puran Singh, Mangat Singh Son of Sucha Singh, Manjinder Singh @ Kala son Sarvan

Singh, Bittu @ Malkit Singh son of Pala Singh, Resha Singh son of Puran Singh, Swaran Singh son of Sucha Singin Charanjit @ Sai @ Charan Singh son of Karnail Singh, Surinder Kaur wife of Mangal Singh and Satnam Singh son of Bhag Singh, have been arrayed as accused in the present FIR.

Petitioner /accused Swaran Singh son of Sucha Singh has since died.

(ii) As per statement of investigating officer, none of the petitioners/accused have been declared as proclaimed person in the present case.

(iii) In view of statements suffered by the parties before the Court, it appears that parties have effected compromise which is genuine, voluntary and out of free will and is not the result of any threat, pressure or undue influence etc. in any manner.

(iv) None of the petitioner/accused have been involved in any other FIR.

(v) As per statement of investigating officer, Balwinder Singh son of Hari Singh is the complainant/victim in the present case.”

4 Learned counsel for the petitioners submits that in view of the fact that petitioner No.6-Swaran Singh has since died, the case is abated against him and consequently the present petition has been rendered infructuous qua him.

5 Learned counsel for respondents No.2 to 6 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.

6 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 09.01.2023 (Annexure P-3).

7 I have heard learned Counsel for the parties and have carefully gone through the records of the case.

8 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.

9 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.*

10 Consequently, the petition is allowed. FIR No.58 dated 02.07.2017, registered for offences punishable under Sections 323/506/148/149 IPC, at Police Station Fattu DHINGA, District Kapurthala 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