

CRM-M No.56023 of 2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.56023 of 2022

Date of decision : 24.07.2023

Amarjit Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Hitesh Chopra, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Himanshu Garg, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.95 dated 10.12.2009 under Sections 420,466,467,468,471 IPC registered at P.S Dera Baba Nanak, District Gurdaspur, on the basis of compromise deed dated 06.09.2022 (Annexure P-2).

2. On 28.03.2023, the following order was passed :

“Status report by way of affidavit of Sarvanjit Singh, PPS, Deputy Superintendent of Police, Sub Division Fatehgarh Churian, Additional Charge of Sub Division Dera Baba Nanak, Police District Batala filed in Court is taken on record.

Adjourned to 24.07.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 24.04.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any

fraud or misrepresentation and is the result of free will of the parties. It shall also be verified that besides the accused (petitioner) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate, Ist Class, Batala dated 28.04.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Please find enclosed herewith statements so suffered by respondent no.2/complainant Harbhajan Singh and accused-petitioner Amarjit Singh with regard to compromise having been effected between them in the present case voluntarily and without any coercion or pressure. Statement of investigating officer also recorded.

After going through the statements of the parties, this Court is satisfied that respondent No.2 Harbhajan Singh and accused Amarjit Singh have effected the compromise with their own will and without any coercion or pressure from any corner and same is found genuine.

As per statement of ASI Raghbir Singh no.1527/Btl, no other person except Amarjit Singh is involved in the FIR and parties are not involved or declared proclaimed offender in any other criminal case.”

4. Learned counsel for respondent No.2 submits that the parties are closely related to each other. He 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 dated 06.09.2022 (Annexure P-2).

6. I have heard learned 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.

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(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).

(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 petition is allowed. FIR No.95 dated 10.12.2009 under Sections 420,466,467,468,471 IPC registered at P.S Dera Baba Nanak, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

July 24, 2023
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable : No