

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

**CRM-M-56607-2022
Date of decision : 21.7.2023**

Bakhshish Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Balraj Singh Sidhu, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0091 dated 14.10.2021, registered for the offences punishable under Sections 307, 323 and 34 of IPC (Sections 427 and 506 of IPC added later on), on the basis of compromise.

2. On 05.12.2022, the following order was passed:-

“This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0091 dated 14.10.2021 under Sections 307/323/34 of IPC (Sections 427 & 506 of IPC added later on), registered at Police Station Mallanwala, District Ferozepur (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise dated 25.02.2022 (Annexure P-2) arrived at between the parties.

Notice of motion.

2023:PHHC:105766

Mr. Ravinder Singh, AAG, Punjab puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

At this stage, Mr. Balraj Singh Sidhu, Advocate puts in appearance on behalf of respondents No.2 & 3 in the Court today. Copy of the paper book be supplied during the course of the day.

Learned counsel for respondents No.2 & 3 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 15.12.2022 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial
- (iii) status/stage of the trial/case;
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 03.03.2023.”

3. Pursuant to the aforesaid order, report from JMIC Zira dated 17.02.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

Statement of ASI Satpal Singh No.1033/Fzr, who is Investigating Officer in this case has appeared and suffered statement that:-

“Stated that I am investigating officer in the above said FIR. I identify accused No.1 Bakhshish Singh S/o Jagir Singh, accused No.2 Hira Singh S/o Kashmir Singh, accused No.3. Daljeet Singh @ Diljeet Singh S/o Hira Singh and accused No.4 Raghbir Singh @ Raghu S/o Bakhshish Singh All R/o Village Mastewala PO Shah Abu Bakkar, Tehsil Zira, District Ferozepur, in FIR No.91 dated 14.10.2021 under section 307, 323, 427, 506, 34 of IPC, Police Station Mallan Wala. There are 4 accused arrayed in the above said FIR. No accused has been declared Proclaimed offender in this case till date. Challan in this FIR has already been presented only against accused Bakhshish Singh son of Jagir Singh and same was committed to the Court of the Learned Sessions Judge, Ferozepur and remaining 3 accused were found innocent and entered in the column No.2 of challan.”

Hence, from the above said discussion, this court is of the considered opinion that compromise effected between the parties. As per statement of the Investigating Officer, (i) As per statements of the IO, there are four accused arrayed in the present FIR but challan in this FIR has been presented only against accused Bakhshish Singh son of Jagir Singh and remaining 03 accused were found innocent and kept in the column No.2 in the challan sheet, (ii) No accused has been declared proclaimed offender at any stage of trial, (iii) Challan in this FIR has already been presented only against accused Bakhshish Singh son of Jagir Singh and same was committed to the Court of the Learned Sessions Judge, Ferozepur and remaining

03 accused were found innocent and kept in column No.2 of challan, (iv) As per statement of the parties, compromise is genuineness and valid, (v) As per statement of the IO with regard to points No.(i, ii and iii) as above recorded.”

4. Mr. Balraj Singh Sidhu, Advocate appears for respondents No.2 and 3 and 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. Learned State counsel submits that Section 307 of IPC has been added and thus the case would fall within the exceptions as carved out in **State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688**, wherein mere mentioning of offence punishable under Section 307 of IPC will not be an impediment for quashing the FIR.

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.
- (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 fall within the exceptions as carved out in **Laxmi Narayan's** case (supra). However, it is a case wherein there was an accident between the two vehicles and no life threatening injury was suffered by any of the victims.
- (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.
- (vi) No firearm has been used.
- (vii) Injury has not been inflicted on the vital/delicate part of the body.
- (viii) Investigation stands completed.

9. Consequently, the petition is allowed. FIR No.0091 dated 14.10.2021, registered for the offences punishable under Sections 307, 323 and 34 of IPC (Sections 427 and 506 of IPC added later on) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

21.07.2023

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No