

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

267

CRM-M-56149-2022

Date of decision : 04.09.2023

Kashmir Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikrant Vij, Advocate for
Mr. G.S. Bawa, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. G.S. Bajwa, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.03 dated 01.01.2021, registered for offences punishable under Sections 379, 447, 427, 506, 34 and 511 of IPC, 1860, at Police Station Chheharta, District Police Commissionerate, Amritsar on the basis of compromise/affidavit dated 11.11.2022 (Annexure P-2).

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

“The present petition has been filed for quashing of an FIR No.03 dated 01.01.2021 (Annexure P-1) registered under Sections 379, 447, 427, 506, 34, 511 of the IPC, 1860 at Police Station Chheharta, Amritsar, District Police Commissionerate, Amritsar and all other consequential proceedings arising therefrom, on the basis of compromise entered into between the parties.

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The learned counsel for the petitioner submits that in order to live peacefully, parties have entered into compromise/affidavit on 11.11.2022 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Kirat Singh Sidhu, D.A.G, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Gagandeep S. Bajwa, Advocate accepts notice on behalf of respondent No.2 and has filed his Memorandum of Appearance. The same is taken on record. He does not dispute the above said compromise, which has been arrived at between the parties, according to which, complainant does not wish to press the allegations alleged in the FIR any further.

Adjourned to 27.03.2023.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement on 23.12.2022 with regard to the compromise/affidavit dated 11.11.2022 (Annexure P-2) by moving an appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information in a tabulated format:-

1. *Number of persons arrayed accused in the FIR;*
2. *Whether any accused is a proclaimed offender;*
3. *Whether the compromise is genuine, voluntary and without any coercion or*

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undue influence;

4. *Whether the accused persons are involved in any other FIR or not; and*
5. *The statements of the complainant and all the victims/persons aggrieved shall be recorded by the Trial Court;*
6. *The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victim/complainant as well as accused are party to the compromise in question.”*

The question of imposition of cost for wasting the valuable time of the police as well as the Court will be assessed and imposed at the time of the final hearing of the present petition in case, the FIR is to be quashed.”

3. As per report of the trial Court dated 22.03.2023, neither the complainant nor the accused had appeared to record their respective statements. Further, vide order dated 10.05.2023, parties were again directed to appear and record their statements.

4. Pursuant thereto, report 19.08.2023 from JMIC, Amritsar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

- i. There are total 3 accused in the present FIR namely Kashmir Singh, Gursewak Singh and Bakshish Singh.
- ii. As per the statement of the Investigating Officer, no accused has been declared proclaimed offender in any case.
- iii. The compromise effected between the parties appears to be genuine and the same has been effected

between the parties voluntarily, out of their free will, without any undue influence or coercion and is also not a result of fraud or misrepresentation.

iv. Accused are not involved in any other FIR.

v. There is one complainant namely Baljeet Kaur and three accused namely Kashmir Singh, Gursewak Singh and Bakshish Singh.”

5. Mr. G.S. Bajwa, Advocate appears for respondent No.2 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.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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

8. 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

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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).
- (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.

10. Consequently, the petition is allowed. FIR No.03 dated 01.01.2021, registered for offences punishable under Sections 379, 447, 427, 506, 34 and 511 of IPC, 1860, at Police Station Chheharta, District Police Commissionerate, Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

04.09.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No