

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

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CRM-M-58537-2022

Date of decision : 20.11.2023

Kirandeep Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Sumanpreet Aulakh, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Ms. Sunita Nambiar, Advocate
for respondent No.2

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0016 dated 08.02.2017, registered for offences punishable under Sections 188, 177-E and 511 of IPC at Police Station Majitha, District Amritsar Rural on the basis of compromise deed dated 28.11.2022 (Annexure P-2).

2. On 09.08.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.0016 dated 08.02.2017, registered for offences punishable under Sections 188, 177-E, 511 of IPC, at Police Station Majitha, District Amritsar and all subsequent proceedings arising thereto on the basis of compromise.

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Learned counsel for the petitioners contends that the matter already stands compromised vide compromise deed dated 28.11.2022 (Annexure P-2).

Notice of motion.

On the asking of the Court, Mr. Kunal Vinayak, AAG, Punjab, who is present in Court accepts notice on behalf of the respondent-State.

In view of the above, petitioner No.1 and respondent No.2 are directed to appear before learned Illaqa Magistrate/trial Court on 18.08.2023.

On their doing so, the learned Illaqa Magistrate/trial Court/Duty Magistrate 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 Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

To come up on 27.09.2023.”

3. Pursuant to the aforesaid order, report dated 14.09.2023 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 only three accused persons in the present FIR.
- ii. As per the statement of the Investigating Officer, there is no PO proceedings pending against the accused in this 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. The accused persons are not involved in any other FIR.
- v. There is only one complainant in this case namely Jatinder Singh Gill.”

4. Ms. Sunita Nambiar, Advocate appears for respondent No.2 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

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

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.**

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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.*

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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) 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. FIR No.0016 dated 08.02.2017, registered for offences punishable under Sections 188, 177-E and 511 of IPC at Police Station Majitha, District Amritsar Rural and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

20.11.2023

Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No