

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

243

CRM-M-8077-2023

Date of decision : 21.07.2023

Gurjeetpal Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ankush Thakral, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

None for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing of FIR No.218 dated 07.11.2016, registered for offences punishable under Sections 307, 336, 506, 148 and 149 of IPC, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station Maur, District Bathinda on the basis of panchayati compromise dated 10.11.2022 (Annexure P-4).

2. On 16.02.2023, the following order was passed:-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.218, dated 07.11.2016 (Annexure P-2), under Sections 307, 336, 506, 148, 149 of the IPC and Sections 25 & 27 of Arms Act, registered at Police Station Maur, District Bathinda, with all consequential proceedings arising therefrom, on the basis of compromise dated 10.11.2022 (Annexure P-4).

2023:PHHC:097085

Notice of motion for 02.05.2023.

On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of respondent No.1-State.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court within a period of two weeks from today, for recording of their statements with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- (i) Number of persons arrayed as accused in the FIR;
- (ii) Whether any accused is declared as proclaimed offender?
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?
- (iv) Whether the accused persons are involved in any other FIR or not?"

3. Pursuant to the aforesaid order, report dated 22.02.2023 from JMIC, Talwandi Sabo has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Four accused persons are arrayed in the present FIR and there are three complainant/injured in the present case. The compromise between accused/petitioners Gurjeetpal, Gurbachan Singh, Kartar Singh @ Yadwinder Singh Maan and Jagseer Singh @ Bagga @ Charanjit Singh and complainant/injured Udham Singh, Tehal Singh and Mohinder Singh is genuine, voluntary and without any pressure, coercion or undue influence.”

2023:PHHC:097085

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

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

6. 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

2023:PHHC:097085

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.

7. 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) being under Section 307 IPC. However, counsels are ad idem that the dispute related to two factions trying to take control of Truck union. Injury was suffered on fore-arm and there is no allegation of firing of gun shots on any person, thus it can be safely said that offence punishable under Section 307 IPC would not be made out.
- (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.

8. Consequently, the petition is allowed. FIR No.218 dated 07.11.2016, registered for offences punishable under Sections 307, 336, 506, 148 and 149 of IPC, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station Maur, District Bathinda 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