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

CRM-M-58534-2023

Date of Decision: 21.11.2023

Gurpreet Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kuljit Singh Bal, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. Learned counsel for the petitioner submitted that in the Head Note as well as in the body of the petition, inadvertently the provision of Section 295 IPC has been mentioned and in fact as per the vernacular of the FIR, it is Section 295-A IPC and on his oral request, the aforesaid mistake may be rectified.

2. The oral request made by learned counsel for the petitioner appears to be just and reasonable since it appears to be a typographical mistake.

3. It is, therefore, directed that in the Head Note as well as in the body of the petition, the aforesaid provision of 'Section 295 IPC' be substituted and read as 'Section 295-A IPC'.

4. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.15, dated 27.01.2018, under Section 295-A IPC and Section 3(10) of the SC & ST Act, 1989, registered at Police Station Guraya, District Jalandhar along with the subsequent

proceedings arising therefrom on the basis of the compromise arrived at between the parties.

5. Learned counsel for the petitioner submitted that the allegations contained in the FIR are that the petitioner had uploaded a post on Facebook while depicting Guru Ravidas Ji along with National Flag and photographs of meat, fish and butchers and uploaded it as status with the caption 'Baba Chicken Fish War India'. He further submitted that the present FIR was lodged by the complainant on the basis of the aforesaid allegations that the petitioner had uploaded the aforesaid photograph and the caption with an intention to create disharmony amongst different communities and also to hurt the religious feelings apart from instigating riots. He submitted that although the aforesaid photograph of Guru Ravidas Ji was uploaded on Facebook by the petitioner but there had been mixing of the photographs thereafter and therefore, there is no act of sacrilege committed by the petitioner. He further submitted that the petitioner has tendered an apology and even otherwise also a compromise has been effected between the parties with the intervention of the respectable persons of the area vide Annexure P-2 and therefore, the present FIR may be quashed based upon compromise. He also submitted that the challan has also been presented in the present case.

6. I have heard the learned counsel for the petitioner.

7. Before proceeding further, the contents of the FIR vide Annexure P-1 are reproduced as under:-

*“To, The Station House Officer, Police Station Guraya. Sub:
For causing hurt to our sentiments by doing desecration of
photo of Guru Ravi Das Ji and to hold conspiracy of out
breaking caste based riots and to sacrilege the national flag.*

Sir, It is requested that I Behari Lal son of Parkash Chand resident of Chahrari. I came to know that on the facebook id in the name of Gurpreet Takhar, the photograph of Guru Ravidas Ji with national flag has been posted and further the photographs of persons who deals with slaughter of meat and fish have been uploaded and it has been written Baba Chicken Fish War India. Upon verification, it has been found that this person is Gurpreet Singh son of Harpal Singh caste Jat resident of Chachfrari Police Station Guraya, Jalandhar. He is a clever minded person. He has formed a group. He act is to disturb the peace of area and to cause hurt to the sentiments of the people of this area and to broke out riots. He has uploaded the status to defame our Ravidasia caste and to defame our Guru Ravidas Ji. This person is fully aware that this photograph is of Guru Ravidas Maharaj. He has intentionally upload this post on facebook and has done viral. It has hurt the sentiments of follows of Guru Ravidas Ji. When I along with my accomplices have visited him and asked for the reason to do so, he said Kuteyo Chumaro whatever I had to do, I have done and now you may do whatever you want. His accomplices will not leave us and he gave abuses and threats of killing to us. They are group of 5/6 persons. They have connived to disturb the peace of the area. Other person may have involvement in it. If I suffer any loss, the responsibility will be of the above said person. Legal action be taken against him and justice be given. He has uploaded this post intentionally with national flag keeping in view republic day i.e. 26th January 2018. This is my statement. Sd. Behari Lal.”

8. The law with regard to quashing of the FIR based upon compromise pertaining to the acts of sacrilege has been discussed in detail by this Court by passing a detailed judgment in **CRM-M-40966-2023** titled as

“Kashmir Singh and another Vs. State of Punjab and others”, decided on 21.08.2023. This Court categorically held that an act of sacrilege pertaining to any religion falls in the category of serious and heinous offence and should not ordinarily be quashed on the basis of compromise notwithstanding the maximum sentence provided under the provision relating to sacrilege. However, in case no conclusive evidence or an oral or documentary evidence is collected by the investigating agency during investigation for holding the accused guilty even after trial, then in those peculiar and special facts and circumstances, the High Court may invoke its jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of the FIR based upon compromise but with extreme care and caution. This Court further held that while exercising the powers under Section 482 of the Code of Criminal Procedure, the Court has to see as to whether in the facts and circumstances of a particular case, it would be a fit case for quashing of the FIR and one of the basic parameters is to prevent the abuse of the process of law. Section 295 IPC deals with the offence of sacrilege. Similarly, Section 295-A IPC also deals with the act of sacrilege. The offences contained in both the sections, therefore, have serious impact on the society. This Court has also held that in the acts of sacrilege, the victim is the society at large or at the most a class of persons. In the act of sacrilege, the offence has serious impact on the society at large and therefore, continuation of trial of such cases will be founded on the overriding effect of public interest in punishing the persons for such serious offences. The theory and philosophy of deterrence is fully applicable to the offences relating to sacrilege. Para No.15 to 20 of the aforesaid judgment are reproduced as under:-

“15. The investigation of the case has already been completed and challan has also been presented and now the trial Court has fixed the case for consideration for framing of charges. The Hon’ble Supreme Court has laid down various tests alongwith illustrations although not exhaustive as to when there can be a quashing of FIR/complaint based upon compromise. In Gian Singh’ case (supra) one of the circumstances where the Court should be reluctant in quashing of the FIR based upon compromise should be when the offence has a serious impact on the society. The High Court may choose to quash the FIR when in the given facts and circumstances the chances of conviction are very remote and bleak and an extreme injustice will be caused in case the FIR is not quashed. These are those cases where compromise is effected with the victim and Hon’ble Supreme has laid much emphasis on the expression ‘victim’. Thereafter, again in Narinder Singh’s case (supra), the Hon’ble Supreme Court laid much emphasis on the expression ‘victim’ wherein a compromise has been effected between an offender and victim and in order to secure the ends of justice like in the case of financial dispute etc. the FIR can be quashed based upon compromise. In the present case, the primary allegation in the FIR is that religious feelings have been hurt and there is a class of persons who are the ‘victim’ and not one individual. The Hon’ble Supreme Court has also discussed the theory of deterrence and correctional objective and it was observed that in certain heinous and serious cases which pertain to murder, rape, sexual offence etc., the theory of deterrence will have predominant effect. The list of offences which fall in the category of serious or heinous offences are not exhaustive in nature and it depends upon the nature of

offence and therefore, it becomes the duty of the Court while exercising the power under Section 482 of the Code of Criminal Procedure to comprehend as to whether the offence falls in the category of serious or heinous offence or not. Thereafter, again in Laxmi Naryan's case (supra), the proposition of law was reiterated whereby again the list of serious and heinous offences was never made exhaustive in nature and again it was held that in cases which have serious impact on society may not be quashed based upon compromise. In Arun Singh's case (supra), it was so observed by the Hon'ble Supreme Court that such offences which were subject matter of that case have serious impact on the society and continuance of trial of such cases is founded on the overriding effect of public interest in punishing persons for such serious offences. This Court is of the view that in the act of sacrilege, the offence has serious impact on the society and therefore continuation of trial in such cases will be founded on the overriding effect of public interest in punishing persons for such serious offences.

16. This Court earlier also had an occasion to deal with a case in CRM-M-623-2022 titled as "Nanu Kumar Vs. State of Haryana and others", decided on 10.01.2022, wherein prayer was made for quashing of the FIR based upon compromise in an offence under Section 295-A IPC. The allegations in that case were that the accused deliberately hurt the religious sentiments of crores of Hindus on social media publicly with the motive of provoking riots and even made some dirty remarks on respected Lord Krishna on the Holy festival of Hindus i.e. Shri Krishna Janmashtami and had put obscene pictures publicly which were seen by millions of people all over India. Para 7 & 8 of the aforesaid judgment is

reproduced as under:-

*“7. A perusal of the aforesaid allegations against the petitioner would show that the present offence is an offence against the society at large and it is not a case of a private offence where only one person is affected whereas society at large is being affected by the aforesaid allegations. Furthermore, the law with regard to the quashing of FIR based upon compromise is no longer res integra. The Hon'ble Supreme Court in **The State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (Cr.) 706**, while referring to the earlier judgments of the Hon'ble Supreme Court laid down various parameters as to under what circumstances an FIR can be quashed based upon compromise. It is a settled law that the High Courts while exercising powers under Section 482 Cr.P.C. must consider whether it would be unfair or contrary to the interests of justice to continue with the criminal proceedings or continuation of the criminal proceedings would tantamount to abuse of the process despite settlement and compromise arrived at between the victim and the wrong doer and whether to secure the ends of justice, it will be appropriate that criminal case be put to an end and if the answer to the same is in the affirmative then the High Courts shall be within its jurisdiction to quash the criminal proceedings. However, such a power under Section 482 Cr.P.C. is to be exercised very sparingly and with caution and can be used only*

to secure the ends of justice or to prevent abuse of process of Court and while exercising the powers, the High Court is to see as to whether the possibility of conviction is very less or remote and continuation of criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. In nutshell, the decision as to whether an FIR is required to be quashed on the basis of compromise would be on the basis of facts and circumstances of each case and there can be no exhaustive elaboration of principles in this regard.

8. While exercising the powers under Section 482 Cr.P.C., the Court has to see as to whether in the facts and circumstances of a particular case it would be a fit case for quashing of the FIR and one of the basic parameter is to prevent the abuse of the process of law. In the present case, however, the offence is so serious in nature and involving large public interest and society at large and there is nothing to show that quashing of the FIR at this stage will prevent the abuse of the process of law.”

17. Section 295 IPC deals with the offence of sacrilege. It, therefore, has serious impact on the society. In the acts of sacrilege, the victim is the society at large or at the most a class of persons. In the acts of sacrilege, the offence has serious impact on the society at large and therefore, continuation of trial of such cases will be founded on the overriding effect of public interest in

punishing the persons for such serious offences. The theory and philosophy of deterrence is fully applicable to the offences relating to sacrilege.

18. Therefore, it is held that an act of sacrilege pertaining to any religion falls in the category of serious and heinous offence and should not ordinarily be quashed on the basis of compromise notwithstanding the maximum sentence provided in the provision relating to sacrilege. However, if no conclusive evidence, oral or documentary is collected by the investigating agency during investigation for holding the accused guilty even after trial, then in those peculiar and special facts and circumstances, the High Court may invoke its jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of FIR based on compromise but with extreme care and caution.

19. Considering the allegations contained in the present FIR and the fact that the occurrence as so stated in the FIR has not been denied either in the compromise deed (Annexure P-2) or in the present petition itself, this Court does not deem it fit and proper to quash the present FIR based upon compromise by invoking its extra-ordinary jurisdiction under Section 482 of the Code of Criminal Procedure.

20. Consequently, the present petition is hereby dismissed.”

9. In the aforesaid judgment passed by this Court, this Court also referred to one earlier judgment passed in **CRM-M-623-2022** titled as “**Nanu Kumar Vs. State of Haryana and others**”, decided on 10.01.2022, wherein also the prayer for quashing of the FIR based upon compromise in an offence under Section 295-A IPC was declined. The allegations in the aforesaid case were that the religious sentiments of crores of Hindus were hurt with the motive of

provoking riots and even some dirty remarks were made on respected Lord Krishna on the Holy festival of Shri Krishna Janmashtami and had put obscene pictures on social media which were seen by millions of people all over India. This Court in the aforesaid judgment as well, while referring to the judgment of the Hon'ble Surpreme Court in *State of Madhya Pradesh Vs. Laxmi Narayan and others*, 2019(2) SCC (Criminal) 706, dismissed the petition for quashing of FIR based upon compromise. After referring to the aforesaid judgment of *Nanu Kumar's case (Supra)*, this Court in the judgment of *Kashmir Singh's case (Supra)*, also dismissed the same and the allegations in this case were that the accused persons had some dispute with each other and the accused persons had kicked the model of Shri Darbar Sahib with foot and one Granthi got lodged the FIR which was later on compromised but while observing as aforesaid, this Court dismissed the aforesaid petition since the act of sacrilege is an offence against the society at large and it was held by this Court that every act of sacrilege pertaining to any religion and notwithstanding the quantum of punishment is a serious and heinous offence and cannot be quashed based upon compromise. Only one small window has been left open that where in extreme circumstances, considering the facts and circumstances of each case, even after the collection of oral or documentary evidence, the accused cannot be held guilty where even after trial is concluded then while exercising extreme caution, the Court can exercise its jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of the FIR based upon compromise.

10. Now coming to the facts of the present case, a perusal of the aforesaid FIR would show that allegedly the petitioner had uploaded the

aforesaid post on the Facebook. The language so stated in the FIR itself would show that it is so serious in nature. The factum of uploading the post by the petitioner has not been disputed by the learned counsel for the petitioner during the course of arguments. Undoubtedly, the aforesaid post would certainly have an effect upon the society at large. It has also been alleged in the FIR that the intention for doing the aforesaid act was to cause riots and disharmony amongst different communities in the State of Punjab. All the facts and circumstances can be considered only at the time of trial by adducing evidence. But certainly, the case would fall in the category of serious and heinous offence. In addition to the above, a perusal of the compromise which has been attached as Annexure P-2 would show that the compromise has been effected with the intervention of the respectables and the petitioner has tendered an apology. However, there is nothing in the compromise to show or to deny that such act has not been committed by the petitioner or that the photographs in the post have been amalgamated or combined back at any later stage as so stated by the learned counsel for the petitioner during the course of arguments. In other words, there is no denial of posting of the aforesaid pictures as alleged in the FIR.

11. Apart from the above, a perusal of the present petition itself would show that there is no such averment made in the petition that the petitioner has not committed this offence or that the photographs were combined later on. The only reason so stated in the present petition is that the matter has been compromised with the intervention of the respectables. Therefore, the allegations in the present case on the face of it appears to be serious and heinous in nature. The Hon'ble Supreme Court in *State of Madhya Pradesh Vs.*

Laxmi Narayan and others case (Supra) observed as under:-

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal

proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact

on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

12. After hearing the learned counsel for the petitioner and perusing the record and the pleadings, this Court is of the considered view that the present case does not fall in the exceptions carved out by this Court in the aforesaid judgment in *Kashmir Singh's case (Supra)*. Therefore, finding no merit in the present petition, the same is hereby dismissed.

13. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

21.11.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes |