

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

CRM-M-61071-2022 (O&M)

Date of decision : 17.08.2023

SUNITA RANI AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Saurabh Sarwara, Advocate for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab for respondent No.1.

Ms. Malkit Kaur, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.120 dated 11.11.2022 registered for the offences punishable under Sections 323, 325, 34 of the Indian Penal Code (Section 326 of IPC added later on) at Police Station Division No. 4, Police Commissionerate, Ludhiana (Annexure P-1) on the basis of compromise.

2. Status report/reply dated 29th of May, 2023 by way of affidavit of Sh. Rajesh Sharma, PPS, Assistant Commissioner of Police (Central), Ludhiana has been filed, today in Court. The same is taken on record.

3. On 04.01.2023, the following order was passed :-

“This petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No. 120 dated 11.11.2022 registered under Sections 323, 325, 34 of the Indian Penal Code (Section 326 of IPC added later on) at Police Station Division No. 4, Police Commissionerate, Ludhiana (Annexure P-1) and all consequential

proceedings arising therefrom on the basis of the compromise dated 17.12.2022 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners submits that the dispute has been amicably settled between the parties in terms of the compromise (Annexure P-2).

Notice of motion.

Ms. Ishneet Kaur, AAG Punjab who is present in the Court accepts notice on behalf of respondent No. 1-State and seeks time to file reply/status report.

Ms. Malkit Kaur, Advocate has put in appearance on behalf of respondent No. 2, accepts notice on his behalf and admitted the factum of compromise.

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court to get their statement(s) recorded with regard to compromise/settlement within a period of 30 days from today.

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

1. *Number of persons arraigned as accused in 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.*

The report of the Illaqa Magistrate/trial Court be awaited for 30.03.2023.

Status report/reply on behalf of State be also filed on the adjourned date. ”

4. Pursuant to the aforesaid order, report from JMIC, Ludhiana dated 06.02.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. As per the information furnished by ASI Sudesh Kumar, three person namely Sunita Rani; Sanjeev Kumar and Pankaj

Kumar were arrayed as accused in the present.

2. As per the statement of ASI Sudesh Kumar, none of the accused persons have been declared as proclamation offender.

3. From the statement so suffered by both the parties, i.e. the complainant Nand Lal S/o Mela Ram and present accused namely Sunita Rani: Sanjeev Kumar and Pankaj Kumar, it appears that they have, in fact, entered into a compromise, which is voluntary in nature and is free from any coercion, pressure or threat.

4) As per the information furnished by ASI Sudesh Kumar, one DDR No.27 dated 22.08.2022 U/s 107/151 Cr.P.C was got registered against Sanjeev Kumar and DDR No.13 dated 08.11.2022 U/s 107/151 Cr.P.C was also got registered against Pankaj Kumar.

5) As per the report of ASI Sudesh Kumar, there is one complainant/victim namely Nand Lal in the present case.”

5. Ld. Counsel appearing for respondent No.2 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. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. 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 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.120 dated 11.11.2022 registered for the offences punishable under Sections 323, 325, 34 of the Indian Penal Code (Section 326 of IPC added later on) at Police Station Division No. 4, Police Commissionerate, Ludhiana (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

August 17, 2023

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No