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

CRM-M-2732-2024
Date of Decision : 22-04-2024

Harpreet Singh and ors

.....Petitioner(s)

Versus

State of Punjab and ors

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. A.S. Brar, Advocate
for the petitioners.

Mr. J.S. Arora, DAG Punjab
along with ASI Satnam Singh.

Mr. Gurnoor Singh, Advocate
For respondent Nos.2 to 5.

PANKAJ JAIN, J. (Oral)

1. By way of the present petition, petitioners are seeking quashing of DDR No.24 dated 06.11.2023 registered under Sections 452, 323, 34 of the Indian Penal Code in case FIR No.102 dated 04.11.2023, registered for offences punishable under Sections 323, 324, 506, 34 of the Indian Penal Code, 1860 at Police Station Qadian, Tehsil Batala, District Gurdaspur and all subsequent proceedings arising thereto on the basis of compromise.

2. On, 19.01.2024, the following order was passed :-

"The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking

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quashing of DDR No.24 dated 06.11.2023 registered under Sections 452, 323, 34 of the Indian Penal Code in case FIR No.102 dated 04.11.2023, registered for offences punishable under Sections 323, 324, 506, 34 of the Indian Penal Code, 1860 at Police Station Qadian, Tehsil Batala, District Gurdaspur and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 22.04.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, appears and accepts notice on behalf of respondent No.1-State.

Mr. Gurnoor Singh, Advocate appears and accepts notice on behalf of respondent No.2 to 5 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 07.02.2024. On their doing so, the learned 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.”

3. Pursuant to the aforesaid order, report dated 14.03.2024 from Judicial Magistrate 1st Class, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

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"1. I have the honour to submit that vide order dated 19.01.2024 of Hon'ble Punjab and Haryana High Court, both the parties were directed to appear before this court on 07.02.2024 for recording their statement with regard to compromise. On 07.02.2024, parties appeared before this court for recording their statements with regard to compromise, in pursuance of above said order. Accordingly, in view of order dated 19.01.2024, statements of complainants as well as injured persons and accused persons were recorded on 07.02.2024 itself.

2. Complainant/respondent no. 2 Sawinder Kaur wife of Balwinder Singh, resident of village Rampur got recorded her statement to the effect that DDR No. 24 dated 06.11.2023 under-sections 452/323/34 IPC in FIR No. 102 dated 04.11.2023, under-sections 324/323/506/34 IPC, P.S Qadian, District Batala was registered against accused four persons namely Harpreet Singh son of Gajjan Singh. Gajjan Singh son of Ganga Singh, Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh, all residents of village Rampur, Tehsil Batala, District Gurdaspur on her statement. She has further stated that she has compromised with accused above named in the present case with her own tree consent and without any pressure or coercion with the intervention of the respectables vide compromise deed dated 18.12.2023 Original of said compromise deed is attached with petition filed before Hon'ble High Court. She has stated stated that this compromise is not having any adverse effect the rights of any third party She has placed on record her Aahdar Card as Ex. C1 and was also identified by their counsel Sh. Jagjit Singh, Advocate.

3. Complainant/respondent no. 3 Kuldeep Singh@ Goonga son of Balwinder Singh got recorded his statement to the effect that DDR No. 24 dated 06.11.2023 under-sections 452/323/34 IPC in FIR No. 102 dated 04.11.2023, under- sections 324/323/506/34 IPC. P.S Qadian, District Batala was registered against accused four persons namely Harpreet Singh son of Gajjan Singh, Gajjan Singh son of Ganga Singh. Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh, all residents of village Rampur, Tehsil Batala, District Gurdaspur on his statement. He has further stated that he has compromised with accused above named in the present case with his own free consent and without any pressure or coercion with the intervention of the respectables vide compromise deed dated 18.12.2023. Original of said compromise deed is attached with petition filed before Hon'ble High Court. He has stated stated that this compromise is not having any adverse effect the rights of any third party. He has placed on record her Aahdar Card as Ex. C2 and was also identified by their counsel Sh. Jagjit Singh, Advocate.

4. Complainant/respondent no. 4 Balwinder Singh son of Daleep Singh got recorded his statement to the effect that DDR No. 24 dated 06.11.2023 under- sections 452/323/34 IPC in FIR No. 102 dated 04.11.2023, under-sections 324/323/506/34 IPC, PS Qadian, District Batala was registered against accused four persons namely Harpreet Singh son of Gajjan Singh, Gajjan Singh son of Ganga Singh, Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh, all residents of village Rampur, Tehsil Batala, District Gurdaspur on his statement. He has further stated that he has compromised with accused above named in the present case with his own free consent and without any pressure or coercion with the intervention of the respectables vide compromise deed dated 18.12.2023. Original of said compromise deed is attached with petition filed before Hon'ble High Court. He has stated stated that this compromise is not having any adverse effect the rights of any third party. He has placed on record her Aahdar Card as Ex. C3 and was also identified by their counsel Sh. Jagjit Singh, Advocate.

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5. Complainant/respondent no. 5 Prabhleen Singh@ Prabhjeet Singh son of Sarabjeet Singh through his guardian(mother) Mandeep Kaur c/o Sarbjeet Singh got recorded his statement to the effect that DDR No. 24 dated 06.11 2023 under-sections 452/323/34 IPC in FIR No. 102 dated 04 11.2023, under- sections 324/323/506/34 IPC, P.S Qadian, District Batala was registered against accused four persons namely Harpreet Singh son of Gajjan Singh, Gajjan Singh son of Ganga Singh, Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh, all residents of village Rampur, Tehsil Batala, District Gurdaspur on his statement. He has further stated that he has compromised with accused above named in the present case with his own free consent and without any pressure or coercion with the intervention of the respectables vide compromise deed dated 18.12.2023. Original of said compromise deed is attached with petition filed before Hon'ble High Court. He has stated stated that this compromise is not having any adverse effect the rights of any third party. He has placed on record her Aahdar Card as Ex. C4 and was also identified by their counsel Sh. Jagjit Singh, Advocate.

6. Similarly, accused/petitioner no. 1 to 4 namely Harpreet Singh, Gajjan Singh. Lovepreet Singh and Sukhpal Singh, all residents of village Rampur, Teshil Batala, District Gurdaspur have also got recorded their separate statements to the effect that they have effected compromise with complainant in the present case with his own free consent and without any pressure or coercion. They have requested that the aforementioned FIR lodged on the statement of complainant be quashed against them They have further submitted that they have not been declared as Proclaimed person/offender by any court. The have stated that this compromise is not having any adverse effect the rights of any third party. They have been duly identified by their counsel Sh. Jaskaranpreet Singh, Advocate and has also placed on record their Aadhar Cards as Ex. C5 to Ex. C8.

7. It is further submitted that separate statement of ASI Surjit Singh No.2517/Batala, posted at P.S Qadian investigating officer also recorded, who has stated that the present cross version vide DDR no. 24 dated 06.11.2023 under- Section 452/323/34 of the Indian Penal Code in FIR bearing no. 102 dated 04.11.2023 under section 324/323/506/34 IPC, Police Station Qadian, Police District Batala, District Gurdaspur which was registered on the statement of complainant/respondent no. 2 Sawinder Kaur wife of Balwinder Singh, complainant/respondent no. 3 Kuldeep Singh@ Googa son of balwinder Singh, complainant/respondent no. 4 Balwinder Singh son of Daleep Singh and complainant/respondent no. 5 Prabhdeep Singh@Prabhjeet Singh son of Sarabhjeet Singh through his guardian(Mandeep Kaur) against four accused persons namely Harpreet Singh son of Gajjan Singh, Gajjan Singh son of Ganga Singh, Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh. He further deposed that none of the accused has been declared proclaimed person in the present FIR nor any other FIR or complaint is pending against above named accused persons at P.S. Qadian.

8. In compliance to the aforesaid order dated 19.01.2024 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted that the point-wise report of undersigned is as follows:-

i. It is submitted that as per statement of investigating officer the present FIR has been registered against four persons namely Harpreet Singh.

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son of Gajjan Singh, Gajjan Singh son of Ganga Singh, Lovepreet Singh son of Gajjan Singh and Sukhpal Singh son of Aroop Singh le petitioners no. 1 to 4.

ii. None of the accused has been declared as proclaimed person/offender in the present case.

iii. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion.

iv. It is submitted that as per statement of investigating officer, no other FIR/complaint is pending against accused persons at P.S. Qadian.

v. It is submitted that as per statement of investigating officer, there are four victims/complainants in the present FIR.

9. As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself."

4. Learned counsel for respondent Nos.2 to 5 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. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 18.12.2023 (Annexure P-3).

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 recognizing compromise between parties in non-compoundable offences in the cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303, State of Madhya Pradesh vs. Laxmi***

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Narayan and others (2019) 5 SCC 688, Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052, 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) and Mohammad Wajid & anr. Vs. State of U.P. & ors, 2023 AIR (SC) 3784. 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.*
>
> *(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.*

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> *(h) When it comes to quashing of FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.*

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. DDR No.24 dated 06.11.2023 registered under Sections 452, 323, 34 of the Indian Penal Code in case FIR No.102 dated 04.11.2023, registered for offences punishable under Sections 323, 324, 506, 34 of the Indian Penal Code, 1860 at Police Station Qadian, Tehsil Batala, District Gurdaspur and all proceedings arising therefrom on the basis of compromise are hereby quashed *qua* petitioner(s).

22.04.2024 **(PANKAJ JAIN)**
spn **JUDGE**

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

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