

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 04.01.2024

1 CRM-M No.1582 of 2020

Gurnam Singh Petitioner

Versus

State of Punjab & anr. Respondents

2 CRM-M No.2775 of 2020

Surjit Singh & ors. Petitioners

Versus

State of Punjab & ors. Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Komalpreet Singh, Advocate for
Mr. A.S.Manaise, Advocate
for the petitioner in CRM-M-1582-2020 and
respondent Nos.2 and 3 in CRM-M-2775-2020.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Abhishek Thakur, Advocate for
Mr. Gagandeep Singh Manku, Advocate
for respondent in CRM-M-1582-2020 and
for the petitioners in CRM-M-2775-2020.

PANKAJ JAIN, J. (ORAL)

1 This order shall dispose off above mentioned two petitions. On
15.01.2020, the following order was passed :-

*“It has been settled that as per the allegations in the FIR,
besides the petitioner, Amritpal Singh, Jobanpreet Singh and Sharanjit*

Kaur were also arraigned as accused but they have been found innocent vide entry incorporated in GD No.27 dated 20.12.2019 (Annexure P-2). It has been further stated that compromise has been effected between the parties.

Notice of motion.

Mr. Rajesh Bhardwaj, Sr. Deputy Advocate General, Punjab, accepts notice on behalf of respondent No.1-State while on the other hand Mr. Satvir Singh, Advocate put in appearance on behalf of respondent No.2, who has not disputed the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 17.02.2020. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

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 person arrayed 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 person 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.*

To await the report, list again on 20.04.2020.”

2. Pursuant to the aforesaid order, report dated 05.03.2020 from Judicial Magistrate 1st Class, Gurdaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is submitted that the petitioner No.1 Gurnam Singh and respondent No.2 Harpreet Singh have appeared and made statement on 17.02.2020. They were asked to show their identity cards and photocopies of the same were taken on record. (Original statements, and photocopies of identity cards attached herewith).

It is further submitted.

- (1) As per statement of Investigating Officer, there are 04 (Four) persons arrayed as accused in FIR.*
- (2) No accused have been declared Proclaimed Offender in this case as per record.*
- (3) All the parties to the petition have appeared for recording their statements, therefore, it appears that the compromise is genuine, voluntary and out of free will of the parties.*
- (4) As per statement of Investigating Officer, no other case is pending against either of the parties except cross case DDR No.27 dated 20.12.2019 against Surjit Singh, Harpreet Singh, Gupreet Singh and Paramjit Kaur on the complaint of Gurnam Singh, petitioner No.1.*
- (5) There is only one victim/complainant person namely Harpreet Singh in the present case FIR. The complainant has appeared and made his statement in support of the compromise.”*

3. Learned counsel for both the parties admit the fact of parties having compromised and state that they have no objection in case the FIR and all proceedings subsequent thereto are quashed.

4. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 07.01.2020 (Annexure P-3).

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

6. 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 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.*
- (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 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.*

8. Consequently, the petition is allowed. FIR No.72 dated 08.11.2019 registered under Section 323, 324, 34 of IPC (Section 326 added later on) at Police Station Kahnuwan, District Gurdaspur and all proceedings arising therefrom on the basis of compromise Annexure P-3 dated 07.01.2020 and GD No.27 dated 20.12.2019 Annexure P-3 under Sections 324, 323, 34 of IPC registered in FIR No.72 dated 08.11.2019 Annexure P-1 under Sections 326, 323, 324, 34 of IPC at Police Station Kahnuwan, District Gurdaspur and all proceedings arising therefrom on the basis of compromise Annexure P-4 dated 07.01.2020, are, hereby, quashed *qua* petitioner(s).

9. Photocopy of this order be placed on the connected file.

04.01.2024
spn

(PANKAJ JAIN)
JUDGE

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