

CRM-M-6141-2024
Date of Decision : 08-04-2024

Pardeep Singh Brar and anotherPetitioner(s)

Versus

State of Punjab and anotherRespondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Sukhdeep Singh Bhinder,
Advocate for the petitioner(s).

Mr. J.S. Arora, DAG Punjab.

Mr. Ravi Ambawata, Advocate
For Mr. Deepak Aggarwal, Advocate
For respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking quashing of
FIR No.4 dated 12.01.2023 registered under Sections 420/120-B, at
Police Station Women Bathinda and all consequent proceedings arising
therefrom on the basis of compromise.

2 On 05.02.2024, 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 quashing of FIR No.4 dated 12.01.2023, registered for offences punishable under Sections 420/120-B IPC, at Police Station Women Bathinda.

Learned counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 08.04.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Deepak Aggarwal, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaqa Magistrate/trial Court on 26.02.2024. On their doing so, the learned Duty Magistrate/Illaqa Magistrate/trial Court 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 Duty Magistrate/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 05.03.2024 from Judicial Magistrate 1st Class, Bathinda has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In view of the above, both the parties are directed to appear before Ld. Duty Magistrate/Illaqa Magistrate/Trial Court on 26.02.2024. On their doing so, the Ld. Duty Magistrate/Illaqa Magistrate/Trial Court shall record their statements and furnish its report to this Court by the next date of hearing”. Report be forwarded to this Court specifying the following”.

- 1) The number of accused arraigned in the FIR;*
- 2) Whether any accused is proclaimed offender,*
- 3) Whether the compromise is genuine, voluntarily 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.*

2. On 26.02.2024, in order to get their statements recorded. parties appeared before the undersigned/Trial Court. After perusing the record, and in compliance of aforementioned order of Hon'ble High Court. As Investigating Officer did not appear, he was again called for 28.02.2024 and 10 appeared on 28.02.2024 and got recorded his statement.

3. The complainant Gurmeet Kaur appeared and has suffered a statement to the effect of stating that matter has been compromised with petitioners No. 1 and 2 namely Pardeep Singh Brar S/o Lakhveer Singh R/o village Kot Dharmu District Mansa now residing at 6 GARNEY COURT, BRAMPTON, ONL6Y4M7 (Canada), through his power of attorney holder Sh Lakhveer Singh S/o Gurbachan Singh R/o Village Kot Dharmu, Distt Mansa and Lakhveer Singh S/o Gurbachan Singh Ro Village Kot Dharmu Distt Mansa, voluntarily and without the threat, coercion or undue influence. The present FIR No. 4 Dated

12.01.2023, u/s 420/120-B of IPC, PS Women, Bathinda may kindly be quashed on the basis of compromise. She has already seen the photocopy of compromise which is Ex. C-1. She produce copy of her Aadhar Card as Mark A.

4 Accused namely Pardeep Singh Brar through his power of attorney Sh. Lakhveer Singh Sto Gurbachan Singh R/o Village Kot Dharmu, District Mansa and Lakhveer Singh have also appeared and conceded to the statement suffered by complainant Gurmeet Kaur and recorded his statement. He has produced copy of his Aadhar Card as a token of his identity as Mark B and photocopy of power of attorney is Mark C.

5. The Investigating Officer of this case namely ASI Bhupinder Singh No. 1112, PS Women, Bathinda is also present and also identified the parties. He suffered statement to that effect that he is IO in FIR No. 4 dated 12.01.2023 under Section 420/120-B of IPC, Police Station Women Cell, Bathinda in which the name of the complainant is Gurmeet Kaur Sidhu and she is the only complainant and there are two accused persons namely Pardeep Singh Brar and Lakhvir Singh Brar. As per record, there is no other FIR registered against the parties. There is no PO proceedings pending against either of the parties. I identify the complainant as well as the accused person namely Lakhvir Singh Brar. He know that his son accused Pardeep Singh Brar is living in abroad. The compromise has been effected between the parties on their own and without any undue influence, coercion or pressure of any side.

6. Parties have recorded the statements before the Court of undersigned being Trial Court in the presence of counsels for both the parties. Accused Pardeep Singh Brar through his power of attorney Sh. Lakhveer Singh s/p Gurbachan Singh r/o Village Kot Dharmu, District Mansa and complainant Gurmeet Kaur have been identified by their respective counsels. The attested photo copies of their Adhaar Cards are also placed on record.

7. After recording the statement of parties, Investigating Officer and perusing the same, the undersigned, in compliance of order dated 05.02.2024, passed by Hon'ble High Court in CRM-M-6141-2024 in case titled as 'Pardeep Singh Brar & Ors Vs. State of Punjab & others' pending for 08.04.2024, submits as under:-

1. As per statement of IO, there are 2 accused persons namely Pardeep Singh Brar and Lakhveer Singh involved in the present case.

2. As per statement of IO, there is no accused absconding/PO.

3. The undersigned is satisfied that the compromise effected between the parties is genuine and has been effected without any coercion or undue influence.

4. As per statement of IO, there is no other FIR registered against the accused persons.

5. As per statement of IO, there is only one complainant/victim in this case.

8. In compliance of order of Hon'ble High Court, the undersigned being trial Court is submitting the report along with statement of the parties and IO, in original as well as copy of their Adhaar Cards for the kind perusal of the Hon'ble High Court. The report is submitted please."

4 Learned counsel for respondents 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.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (**Annexure P-2**).

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 of the Code to quash proceeding 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 wiser 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.

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. FIR No.4 dated 12.01.2023 registered under Sections 420/120-B, at Police Station Women Bathinda and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

08-04-2024
spn

(PANKAJJAIN)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No