

280IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.6266 of 2022
Date of decision : 07.02.2024

Ravinder Kaur...Petitioner

Versus

State of Punjab and ors.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Ashish Bakshi, Advocate
for Mr. Jagpal Singh, Advocate
for respondent Nos.2 to 4.

PANKAJ JAIN, J. (ORAL)

1By way of present petition, the petitioner is seeking quashing of FIR No.82 dated 14.04.2016, registered under Sections 406, 420, 465, 468, 471,120-B of IPC at Police Station Rama Mandi, District Jalandhar and order dated 17.02.2020 (Annexure P/2), whereby she has been declared as proclaimed person along with all consequent proceedings arising therefrom on the basis of compromise.

2The petitioner was earlier declared as proclaimed person vide order dated 17.02.2020 which is also a subject matter of present petition. From the records, it is discernible that the petitioner was not granted statutory period of 30 days at the time of proclamation. The same is evident

from order dated 29.01.2020 placed on record as Annexure P-3. The compliance of 30 days in terms of Section 82 is after the date on which the petitioner was required to appear which is no compliance in the eyes of law. Thus, the impugned order dated 17.02.2020 declaring the petitioner as proclaimed person, is hereby ordered to be quashed. The issue arises whether the petitioner should be ordered to face the trial or the present petition filed under Section 482 Cr.P.C. seeking quashing of FIR should be entertained without relegating the petitioner to the trial Court?

3 On 14.02.2022, the following order was passed:

“Present petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.82 dated 14.04.2016, under Sections 406, 420, 465, 468, 471 and 120-B IPC, registered at Police Station Rama Mandi, District Jalandhar, and subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

Mr. V.G. Jauhar, Sr. DAG, Punjab and Mr. Jagpal Singh, Advocate accept notice on behalf of respondent No.1-State and respondents No.2 to 4 respectively.

Parties may appear before concerned Illaga Magistrate/trial Court on 22.02.2022 or on any other date convenient to the said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the trial Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report:-

(i) regarding genuineness and voluntary nature of the compromise;

(ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

(ii) whether any other proceeding is pending against

the accused/petitioner.

Adjourned to 14.03.2022.”

4 Pursuant to the aforesaid order, report dated 10.03.2022 from Judicial Magistrate 1st Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) This court, after hearing the parties in persons alongwith their counsels and after going through the statements recorded in the court, is of the opinion that the compromise effected between the parties seems to be genuine. They have compromised the matter voluntarily and without any coercion or undue influence and statements recorded by the parties are not the result of any pressure and coercion.

(ii) As per the statement of the investigating officer, there are two accused in the present case. Out of them accused Rohit is stated to have died and the other accused Ravinder Kaur widow of Rohit has appeared in the court in this case. Accused Ravinder Kaur is in custody in the pre present case.

(iii) As per the statement of the investigating officer, there is no other proceeding pending against the accused.”

5 Learned counsel for respondent Nos.2 to 4 admits the factum of compromise between the parties and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioner is quashed. Since the parties have entered into compromise and the offence primarily relates to private dispute. This Court opines that it will be in the interest of justice that the present petition should be entertained for quashing of FIR as well.

6 Similarly, learned State counsel has stated no objection in case the FIR along with proceedings subsequent thereto is quashed based upon the compromise (Annexure P-2).

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

8 This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding 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.

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) 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.*

10 Consequently, the petition is allowed. FIR No.82 dated 14.04.2016, registered under Sections 406, 420, 465, 468, 471,120-B of IPC at Police Station Rama Mandi, District Jalandhar and order dated 17.02.2020 (Annexure P/2) whereby the petitioner has been declared as proclaimed person, along with all proceedings arising therefrom are hereby quashed *qua* petitioner.

07.02.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No