

CRM-M-5552-2024

Deepak Kumar and anr

.....Petitioner(s)

Versus

State of Haryana and ors

.....Respondent(s)

Present:- Mr. Hrithik Chaudhary, Advocate for the petitioner(s).

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Nikhil Singh, Advocate for respondent Nos.2 to 4.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0888 dated 23.10.2023, registered for offences punishable under Sections 323, 34 and 506 of the Indian Penal Code, 1860 at Police Station Karnal City, District Karnal and all consequent proceedings arising therefrom on the basis of compromise.

2. On 02.02.2024, 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.0888 dated 23.10.2023, registered for offences punishable under Sections 323, 34 and 506 of the Indian Penal Code, 1860 at Police Station Karnal City, District Karnal and all subsequent proceedings arising thereto on the basis of compromise.

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

Notice of motion for 24.04.2024.

Mr. Gaurav Bansal, DAG, Haryana appears and accepts notice on behalf of respondent No. 1-State.

Mr. Nikhil Singh, Advocate appears and accepts notice on behalf of respondents No.2 to 4 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 20.02.2024. 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:-”

3. Pursuant to the aforesaid order, report dated 11.03.2024 from Chief Judicial Magistrate, Karnal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Investigating officer HC Dharmender no.932/knl, PP Sector-4, Karnal appeared before the court on 28.2.2024 and suffered his statement to the effect that in the present FIR, two persons, namely, Deepak and Himanshu have been arrayed as accused. No other case has been registered against them nor they have been declared proclaimed offender.

Parties have submitted that without any pressure and coercion, a compromise has been effected between complainant and accused. This has been done to finish the litigation and to have peaceful and harmonious relations. Now, complainant does not want any action against accused and requested to quash the FIR in question. Statement of Investigating Officer has also been recorded, as mentioned above.

Besides recording the statements of the parties as mentioned above, I also duly enquired about the compromise between two sides independently from the complainant and accused as well as their counsel. Both the counsel representing the parties have stated that the matter has been compromised between the parties and there is no ill will between the two sides.

The information sought by the Hon'ble High Court vide its order dated 2.2.2024 is as follows:-

1. Two persons, namely, Deepak and Himanshu have been arrayed as accused in the present FIR.

2. No accused is proclaimed offender

3. Compromise entered between the parties is genuine, voluntary and without any coercion or undue influence.

4. Accused persons are not involved in any other case.

5. Statement of investigating officer has been recorded.

The requisite report is being submitted for kind perusal, as desired.”

4. Learned counsel for respondent Nos.2 to 4 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. Reply by way of an affidavit of Sonu Narwal, HPS, Deputy Superintendent of Police, Karnal on behalf of respondent-State has been filed and 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, 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 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.

(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. FIR No.0888 dated 23.10.2023, registered for offences punishable under Sections 323, 34 and 506 of the Indian Penal Code, 1860 at Police Station Karnal City, District Karnal and all proceedings arising therefrom, are, hereby, quashed *qua* petitioners.

24-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No