

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-22903-2021 in/and
CRA-S-1670-SB of 2014 (O&M)
Date of decision:- 04.03.2024

Paramjit Kaur

...Appellant

Versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Surjit Singh Swaich, Advocate
for the applicant-appellant.

Mr. J.S.Arora, DAG Punjab.

Ms. Deepa Negi, Advocate for the
complainant.

PANKAJ JAIN, J. (Oral)

CRM-22903-2021

This is an application for granting permission to the parties to compromise the matter and allowing the appeal by acquitting the appellant and setting aside the impugned judgments of conviction and orders of sentence and for quashing of the FIR and all subsequent proceedings arising therefrom on the basis of compromise dated 15.04.2021 (Annexure C-1).

On the oral request of counsel for the parties, the main appeal is taken on board for hearing today itself.

CRA-S-1670-SB-2014 (O&M)

1 The present appeal is preferred against order of conviction and order of sentence dated 05.04.2014 passed by Ld. Additional Sessions Judge, Ludhiana in case FIR No.228 dated 01.09.2009 registered under

Sections 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Sadar Khanna, District Ludhiana.

2 On 25.05.2023, following order was passed:-

“CRM-22902-2021

By way of present application, applicant/appellant wants to implead the complainant-Avtar Singh alias Tari as respondent No.2 in the present appeal. The application is supported by an affidavit.

Keeping in view the averments made therein and in the interest of justice, the application is allowed. Amended memo of parties is taken on record. Registry to tag the same at appropriate place.

CRM-22903-2021

This is the application filed under Section 482 of the Code of Criminal Procedure, 1973, for grant of permission to compromise the matter and allowing the appeal and acquittal of the appellant by setting aside the impugned judgment of conviction and order of sentence dated 05.04.2014 in case FIR No. 228 dated 01.09.2019 under Sections 3 and 4 of the Scheduled Cast and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar Khanna, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 15.04.2021 (Annexure C-1) executed between the parties.

2. Notice of the application.

3. At the asking of the Court, Mr. Shubham Kaushik, AAG, Punjab accepts notice on behalf of the State and Mr. Pritpal Singh Swaich, Advocate accepts notice on behalf of complainant. Let the copy of the petition be handed over to the counsel opposite during the course of the day.

4. Learned counsel for the complainant admits the factum of compromise.

5. Accordingly, the private parties are directed to appear before the concerned trial Court/Duty Magistrate on 30.05.2023 or any other date, convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

1. Number of persons 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 persons are involved in any other case or not.
5. The trial Court is also directed to record the statement of the Investigation Officer as to how many victims/complainants are there in the FIR.
7. To await report of the trial Court, adjourned to 13.07.2023.”

3 Pursuant to the aforesaid order, report dated 02.06.2023 from Addl. District and Sessions Judge, Ludhaina has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I have the honour to submit that the Hon'ble High Court vide order dated 25.5.2023 passed in CRA-S-1670-SB-2014 (O&M), has been pleased to direct the Trial Court to record the statements of the parties and submit the report to the Hon'ble High Court.

It is further submitted that statement of complainant Avtar Singh and that of accused Paramjit Kaur have already been recorded on 30.5.2023, to the effect that they have amicably compromised vide compromise deed Ex.PX and complainant has no objection if the present FIR is quashed against the accused person.

Statement of ASI Avtar Singh No.114/KHANNA has also been recorded, who is aware of the facts of the case. He has stated that there is one accused in this case, who is facing trial and only one complainant namely Paramjit Kaur. He further stated that no accused is proclaimed offender. He further stated that compromise between the parties is genuine. Accused is not involved in any other case.

In view of the statement of I.O. and record, it is submitted that there is only one accused in this case, who is facing trial, no accused is proclaimed offender. Accused is not involved in any other case FIR.

In view of the statements of accused as well as complainant and ASI Avtar Singh, I believe that the parties have got their statements qua compromise recorded out of free will and volition and without pressure from any corner and compromise between accused and complaint is genuine, voluntary and without any coercion or undue influence.”

4 Ld. Counsel for the appellant relies upon the judgment passed by Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322**, to contend that this Court while exercising jurisdiction under Section 482 Cr.P.C. can quash the FIR and criminal proceedings even at the post-conviction stage when appeal is pending.

5 In the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra) Apex Court held as under :-

“18. It is now a well crystallized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the

jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

- (i) Nature and effect of the offence on the conscious of the society;*
- (ii) Seriousness of the injury, if any;*
- (iii) Voluntary nature of compromise between the accused and the victim; &*
- (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."*

6 Learned counsel for the complainant admits the fact of parties having compromised and state that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioner is quashed.

7 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 15.04.2021 (Annexure C-1).

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

9 This Court and Apex Court has repeatedly dealt with the issue

of exercising 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 as under:-

(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.

10 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.*
- (vi) Though the petitioners already stand convicted yet in view of the law laid down by the Apex Court in the case of Ram Gopal and anr. Vs. State of Madhya Pradesh (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.”*

11 Consequently, the application bearing **CRM No. 22903 of 2021** is allowed. Appeal stands allowed. Order of conviction and order of sentence dated 05.04.2014 passed by Ld. Additional Sessions Judge, Ludhiana in case FIR No.228 dated 01.09.2009 under Sections 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities)Act, 1989,

Police Station Sadar Khanna, District Ludhiana and the said FIR along with all subsequent proceedings arising therefrom, are hereby quashed *qua* appellant.

12 Pending application(s), if any, shall stand disposed off.

(PANKAJ JAIN)
JUDGE

04th March, 2024
spn

Whether speaking/reasoned : Yes
Whether Reportable : No