

Date of Decision : April 03, 2024

.....Petitioner(s)

Versus

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Mr. Kuljinder Singh, Advocate
for respondent Nos.2 and 3.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking
quashing of FIR No.90 dated 10.11.2022 registered under Sections
323/341/506/326/379/411/34 of IPC, 1860 at Police Station City
Balachaur, District Shaheed Bhagat Singh Nagar and all consequent
proceedings arising therefrom on the basis of compromise.

2 On 07.02.2024, the following order was passed:

“On the oral request made by learned counsel for the petitioners offences punishable under Sections 326/379/411 IPC are ordered to be added in the prayer clause as well as in the head note of the petition.

Registry is directed to do the necessary corrections.

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.90 dated 10.11.2022, registered for offences punishable under Sections 323/341/506/326/379/411/34 IPC, at Police Station City Balachaur, District Shaheed Bhagat Singh Nagar.

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

Notice of motion for 03.04.2024.

On the asking of the Court, Mr. Arun Gupta, AAG, Punjab notice on behalf of respondent No.1-State. accepts Mr. Kuljinder Singh, Advocate appears and accepts notice on behalf of respondents No.2 & 3 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 29.02.2024. 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 18.03.2024 from Sub Divisional Judicial Magistrate, Balachaur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

"It is humbly submitted that in compliance of the order dated 07.02.2024, passed by Hon'ble Punjab and Haryana High Court in CRM-M- 6584-2024 titled as "ARYAN @ ARYAN KOHLI AND OTHERS VS. STATE OF PUNJAB AND ANOTHER.", the undersigned recorded statements of the parties on 29.02.2024. Respondent/complainant Chetan Chechi son of Nirmal Dass has suffered a statement that he has compromised the matter with accused person namely (1) Aryan @ Aryan Kohli, (2) Varunpreet and (3) Nitán Kumar with the intervention of the respectables of locality and family members. Now, he has no grudge and enmity against above said accused persons. He has compromised the matter voluntarily without any coercion or undue influence. The compromise may kindly be accepted. He also placed on record photocopies of his Aadhar Card. Accused persons namely (1) Aryan @ Aryan Kohli, (2) Varunpreet and (3) Nitán Kumar also suffered separate statements on the similar lines as per statement of complainant Chetan Chechi and also placed on record photocopies of their Aadhar Card.

2 IO/ASI Lakhvir Chand No.55/SBS Nagar, P.S City Balachaur, also suffered a statement that he is investigating officer of case bearing FIR No.90 dated 10.11.2022 under Sections 323, 341, 506, 326, 379, 411 and 34 of IPC registered at P.S City Balachaur, Tehsil Balachaur, District SBS Nagar. The said FIR was registered on the statement of complainant namely Chetan Chechi against accused persons namely (1) Aryan @ Aryan Kohli, (2) Varunpreet and (3) Nitán Kumar. He further stated that there is no other accused involved in the aforesaid FIR. There is no other criminal case pending against the aforesaid accused person. None of the accused was declared proclaimed offender. One case is pending against accused Varunpreet bearing FIR No.42 of 2023 under Sections 399 and 402 of IPC and Section 25-54-59 of Arms Act, P.S City Balachaur. Challan has not been presented in the present FIR i.e. FIR No.90/2022. The parties

have effected the compromise with each other with their own free will and without any kind of coercion and undue influence.

3. The para-wise report is as under:-

(i). As per the statement of IO/ASI Lakhvir Chand, there is three persons namely (1) Aryan @Aryan Kohli, (2) Varunpreet and (3) Nitán Kumar arrayed as an accused in the present case/FIR.

(ii) As per the statement of IO/ASI Lakhvir Chand, none of the accused person was declared proclaimed offender.

(iii) As per the statements of both the parties, compromise is genuine, voluntary and without any coercion or undue influence.

(iv) As per the statement of IO/ASI Lakhvir Chand, there is no other criminal case is pending against the accused persons.

(v) Statement of IO/ASI Lakhvir Chand recorded and as per his statement there is only one victim/complainant in the present case.

*4. In view of the above statements suffered by both the parties, this Court is satisfied that compromise between the parties has been effected voluntarily without any threat or coercion and is genuine/correct. The compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. **The attested copies of statements of the both the parties** are annexed herewith for kind perusal of your good-self and necessary action, please. The report is hereby submitted accordingly.”*

4 Learned counsel for respondent Nos.2 and 3 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*

(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.90 dated 10.11.2022 registered under Sections 323/341/506/326/379/411/34 of IPC, 1860 at Police Station City Balachaur, District Shaheed Bhagat Singh Nagar and all proceedings arising therefrom are hereby quashed qua the petitioners.

03.04.2024

spn

Whether speaking/reasoned
Whether Reportable :

(PANKAJ JAIN)
JUDGE
Yes
No