

283 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8464-2024
Date of decision : 30.04.2024

TARLOCHAN SINGH SIDHUPetitioner

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. K.S. Brar, Advocate for the petitioner.
Mr. J.S. Arora, DAG, Punjab with ASI Iqbal Singh.
Mr. Triptjeet Singh, Advocate for
Mr. A.S. Jawandha, Advocate respondent No.2 and 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of
FIR No.47 dated 05.03.2020, registered for offences punishable under
Sections 507 and 509 of the Indian Penal Code, 1860 at Police Station Cantt
Bathinda, District Bathinda (Annexure P-1) on the basis of compromise.

2. On 16.02.2024, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this
Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR
No.47 dated 05.03.2020, registered for offences punishable under Sections
507 and 509 of the Indian Penal Code, 1860 at Police Station Cantt
Bathinda, District Bathinda and all subsequent proceedings arising thereto
on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter
already stands compromised vide Annexure P-2.

Notice of motion for 30.04.2024.

Mr. Jasjit Singh, DAG, Punjab appears and accepts notice

on behalf of respondent No.1-State.

Mr. Amandeep Singh Jawandha 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, the parties are directed to appear before learned Trial Court/Duty Magistrate on 04.03.2024. 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:-

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 Trial Court/Duty Magistrate 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 from ACJM, Bathinda dated 27.02.2024 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “1. In view of the statement of parties as well as statement of investigating officer, only one accused namely Tarlochan Singh Sidhu i.e. petitioner has been arrayed as accused in the FIR.
2. As per statement of Investigating Officer, accused has not been declared proclaimed offender.

3. In view of the statement of parties, the statement of parties appears to be bonafide. The statements have been suffered by the parties are genuine, voluntary and out of their free will and same are not the result of any pressure, undue influence or coercion in any manner.

4. As per statement of Investigating Officer, accused is not involved in any other case.

5. As per statement of Investigating Officer, there is only one victim namely Kamalpreet Sodhi (respondent No.3) wife of Taranjoet Singh Sodhi and FIR was registered on the statement of complainant (husband of the victim) namely Taranjoet Singh Sodhi (respondent No.2)”

4. Ld. Counsel appearing for respondents No.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 petitioner are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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.47 dated 05.03.2020, registered for offences punishable under Sections 507 and 509 of the Indian Penal Code, 1860 at Police Station Cantt Bathinda, District Bathinda (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

April 30, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No