

CRM-M-9511-2024 (O&M)
CRM-M-47022-2023 (O&M)

2024:PHHC:046699
2024:PHHC:050390

292+123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : April 04, 2024

1. CRM-M-9511-2024 (O&M)

Veerpal Kaur Vartiya @ Veerpal Kaur and anr. Petitioners

Versus

State of Haryana and another Respondent(s)

2. CRM-M-47022-2023 (O&M)

Karampal Singh Petitioner

Versus

State of Haryana and another Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. P.K.S. Phoolka, Advocate
 for the petitioner in CRM-M-9511-2024.

 Mr. Amandeep Chhabra, Advocate
 for the petitioner in CRM-M-47022-2023.

 Mr. Ramesh Kumar Ambavta, AAG, Haryana.

 Mr. Ravneet Singh Brar, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

CM-9884-2024 in CRM-M-9511-2024

This is an application for preponing the main case.

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In view of the contents mentioned in the application, the same is taken on record.

Main case is taken on board today itself.

(Main Case)

1 This order shall dispose off two petitions by way of a common order.

2 By way of present petition, petitioner(s) in both the petitions are seeking quashing of FIR No.0044 dated 13.02.2023 registered under Sections 34, 380 and 457 of IPC, 1860 at Police Station Civil Lines, Gurugram District Gurugram (Haryana) and all consequent proceedings arising therefrom on the basis of compromise.

2 A. On 01.02.2024, the following order was passed:

“This is an application for preponement of the main case to some earlier date with further prayer that discussion be issued to both the parties to record their respective statements before the trial Court.

Heard.

For the reasons mentioned in the application, the same is allowed. Main case is taken on board today itself.

Parties are now directed to get their statements recorded before the Illaqa Magistrate/trial Court on 19.02.2024.

On their doing so, the learned 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.

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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 FIR 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 Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

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To await report, adjourned to 04.04.2024.

To be heard alongwith CRM-M-46142-2023.”

3 Pursuant to the aforesaid order, report dated 20.02.2024 from Additional Chief Judicial Magistrate, Gurugram has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that the undersigned was directed by the Hon'ble Punjab and Haryana High Court vide order dated 01.02.2024 passed in CRM-M-3153-2024 in/and CRM-M-47022-2023 to record the statements of complainant Dalwinder Singh Vartiya, accused Karampal Singh and Investigating Officer regarding genuineness of compromise effected between them in Case FIR No.44 dated 13.02.2023. U/S: 380 & 457 read with Section 34 IPC, Police Station: Civil Lines. Gurugram and to submit a report. The complainant Dalwinder Singh Vartiya, accused Karampal Singh and

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Investigating Officer ASI Bhudev. belt No. 190/Gurugram appeared in Court on 19.02.2024. All of them have been examined by the undersigned regarding the genuineness of the compromise and in this regard their separate statements were also recorded.

On the basis of statements made by parties, this Court is of the considered view that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. Point wise, information pertaining to the present case is: 1). As per the record and statement of Investigating Officer, total three accused persons namely Karampal son of Sh. Fauji Ram, resident of Gali No.9, Back Side, BSEB Office, Maltania Road, Bathinda, Punjab, 2. Veerpal Kaur wife of Dalwinder Singh Vartiya daughter of Fauji Ram, resident of Gali No 9, Back Side, BSEB Office, Maltania Road, Bathinda, Punjab & 3. Jaswinder Kaur wife of Balwinder Ram, Bajigar Basti, Tallewal, Tallewal, Barnala, Punjab 148100 have been arrayed as accused in the present FIR. 2. As per record and statement of Investigating Officer, none of the accused is declared as proclaimed offender; 3). As per the record and statements of the accused and complainant, the compromise is genuine, voluntary and without any coercion or undue influence: 4). As per record and statement of Investigating Officer, accused is not involved in any other case: 5). As per the statement of Investigating Officer, one Dalwinder Singh Vartiya son of Sh. Sh. Jagir Singh, permanent resident of House No.103. Master Colony. Ratia Road, Tohana. Tehsil Tohana, District Fatehabad is the only victim/complainant in the present FIR. The requisite report is being submitted please.”

4 Learned counsel for respondent No.2 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

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case the FIR is quashed based upon the compromise.

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) 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 on 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, both the petitions are allowed. FIR No.0044 dated 13.02.2023 registered under Sections 34, 380 and 457 of IPC, 1860 at Police Station Civil Lines, Gurugram District Gurugram (Haryana) and all proceedings arising therefrom are hereby quashed *qua* the petitioner(s).

10

Photocopy of this order be placed on the connected file.

11

Pending applications, if any, shall stand disposed off.

(PANKAJ JAIN)
JUDGE

04.04.2024
spn

Whether speaking/reasoned
Whether Reportable :

Yes
No