

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

264

CRM-M-8367-2020
Date of decision : 06.03.2024

Suraj Kumar Petitioner

versus

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Mr. Jaswinder Singh Rana, Advocate for
Mr. G.S. Rawat, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.06 dated 25.01.2020, registered for the offence punishable under Section 365 of IPC, 1860 at Police Station Division No.1, Jalandhar on the basis of compromise deed dated 19.02.2020 (Annexure P-2).
2. On 26.02.2020, the following order was passed:-

“This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.6 dated 25.01.2020 under Section 365 IPC, registered at Police Station Division No.1, Jalandhar and all other consequential proceedings arising therefrom, on the basis of compromise deed dated 19.02.2020 (Annexure P/2) arrived at between petitioner and respondent No.2.

Notice of motion.

At the asking of Court, Mr. Hardeep Sandhu, Assistant Advocate General, Punjab, accepts notice on

2024:PHHC:035396

behalf of respondent No.1 and seeks time to place on record report, if any. At this juncture, Mr. G.S. Rawat, Advocate has put in appearance and filed Power of Attorney on behalf of respondent No.2, which is taken on record. Complete copies of paperbook be supplied to learned State counsel and learned counsel for respondent No.2 during course of the day.

Learned counsel for respondent No.2 has given concurrence to the factum of compromise Annexure P/2.

Let the parties appear before the trial Court/Area Magistrate, as the case may be, on 25.03.2020 for getting their statements recorded with regard to the compromise. Court is directed to report on the following points:-

- (i) how many total accused are facing the trial,
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial,
- (iii) status/stage of the trial/case,
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 29.04.2020.”

3. However, parties could not appear to record their respective statements and were again directed to record the same vide order dated 01.05.2023 passed by this Court.

4. Pursuant to the aforesaid order, report dated 07.07.2023 from JMIC, Jalandhar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. On the basis of statement of Sub-Inspector Rakesh Kumar, Police Station Division no. 1, Jalandhar, the present FIR was got registered on the statement of complainant Shub Parkash Trehan aged about 56 years son of Kewal Krishan resident of house no.360, Rose Park, Jalandhar. He stated that in the present case there is one accused namely Suraj Kumar. Apart from above mentioned accused there is no other accused in the present case. In the present case there is only one complainant namely Shub Parkash Trehan. No person out of the parties of the present case has been declared as proclaimed offender by any court of law.

2. The case is at the stage of conducting investigation. Challan in this case is yet to be presented.

3. On the basis of statements given before this Court by the parties to the quashing petition by the orders of Hon'ble High Court, it can be safely submitted that the compromise is genuine, voluntary and without any coercion or undue influence, qua them.”

5. Mr. Jaswinder Singh Rana, Advocate for Mr. G.S. Rawat, Advocate, appears for respondent No.2 and 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.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings 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 wider 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.

9. 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 law laid down by the Apex Court in the case of **Ram Gopal and another 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.

10. Consequently, the petition is allowed. FIR No.06 dated 25.01.2020, registered for the offence punishable under Section 365 of IPC, 1860 at Police Station Division No.1, Jalandhar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

06.03.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No