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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11431-2024
Date of decision : 02.05.2024

AMIT AND ANOTHERPetitioners

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Abhinav Sood, Advocate for the petitioners.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Sarun Hans, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.0303 dated 20.05.2021, registered for offences punishable under Sections 148, 149, 285, 506 of the Indian Penal Code, 1860 and under Sections 25, 54 and 59 of the Arms Act, 1959 and Section 307 IPC were added later on at Police Station City Palwal, Tehsil and District Palwal (Annexure P-1) on the basis of compromise.

2. Counsel for the petitioners submits that though there were 6 accused however challan has been presented only against the present petitioners.

3. On 05.03.2024, the following order was passed :-

The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of

FIR No.0303 dated 20.05.2021, registered for offences punishable under Sections 148, 149, 285, 506 of the Indian Penal Code, 1860 and under Sections 25, 54 and 59 of the Arms Act, 1959 and Section 307 IPC were added later on at Police Station City Palwal, Tehsil and District Palwal and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioners contends that the matter already stands compromised vide Annexures P-2 to P-4.

Notice of motion for 02.05.2024.

Mr. Gaurav Bansal, DAG, Haryana appears and accepts notice on behalf of respondent No.1-State.

Mr. Sarun Hans, Advocate appears and accepts notice on behalf of respondent No.2 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 01.04.2024. 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.

4. Pursuant to the aforesaid order, report from Sessions Judge,

Palwal dated 01.04.2024 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

2. Today i.e. on 01.04.2024, the parties have come present alongwith their respective counsel, were questioned generally so as to determine their voluntariness and free will for getting the statements recorded. Thereafter, on being satisfied that the parties are willing to make statements with their free will & consent, statement(s) of Upender (complainant) and Suresh & Amit (accused facing trial) were recorded.

3. Statement of Upender (complainant) is to the following extent:-

"Stated that the present FIR no.303 dated 20.05.2021 under sections 148,149,285,307, 506 IPC and 25 of Arms Act, P.S.City Palwal was got registered by me against Suresh son of Lakhmi, resident of Sanjay Colony Palwal, Amit son of Rohtash, resident of Dukadiya Mohalla, Palwal and other persons. During trial on 04.09.2023, my statement was recorded whereby I narrated the actual facts with regard to the incident and deposed against the accused. Thereafter, both the sides have compromised the matter.

Further stated that I am not under any influence or coercion from accused side, voluntarily and on my own, now I do not want any penal action against Suresh & Amit (accused) facing trial.

Further stated that if on the basis of compromise, FIR in question is quashed by Hon'ble High Court, I will remain bound by this statement."

4. Both Suresh & Amit have made statement with following common averments:-

"Stated that I am facing trial in the present matter/FIR got lodged by complainant (Upender). Due to intervention of respectables and to maintain harmony, we have compromised the matter and there is no pressure or

influence on either of side."

5. For recording the statement of investigating officer, notice was issued and in pursuance Rajesh Kumar SI/SHO P.S.City Palwal has appeared and apprised that ASI Harbir Singh who investigated the matter has expired on 19.10.2022. It was also submitted that he being SHO is fully conversant with the facts of this case and accordingly following statement was got recorded by him:-

"Stated that this case was investigated by ASI Harbir Singh who has since expired and I am placing on record copy of his death certificate as Mark-A. Further stated that in FIR no.303 dated 20.05.2021 under sections 148,149,285,307, 506 IPC and 25 of Arms Act, P.S. City Palwal, two accused namely Suresh son of Lakhmi and Amit son of Rohtash after being arrested were put to trial.

Remaining '7' accused Harbir son of Rohtash, Rohit, Harender, Arun son of Rajbir, Rinku, Tarun and Kapil are still at large and investigation qua them is pending and steps are yet to be taken to declare them proclaimed persons.

Further stated that apart from this FIR two more cases/FIR no.20 dated 14.01.2018, under sections 147,148,149, 285, 323 of IPC and 25 of Arms Act, P.S.City Palwal, FIR no. 90 dated 13.02.2016, under sections 346, 163, 366A,506, 120B IPC, 4 of POCSO Act, 3 of SC/ST Act, P.S.City Palwal were registered against Suresh.

Similarly, three more cases/FIR no.223 of 2020, under sections 323, 34, 341 427 of IPC and 25 of Arms Act, P.S.City Palwal, FIR no.377/2022, under sections 148,149,285,427,506 of IPC and 25 of Arms Act, P.S.City Palwal and FIR no.378/2022, under sections 148,149,285,427,506 of IPC and 25 of Arms Act, P.S.City Palwal were registered against Amit.

Lastly, it is submitted that in this case, there is only one complainant/victim namely Upender."

6. Thus in totality, it emerges that there are total "9" accused in this case, out of them two are facing trial, remaining "7" could not be apprehended and SO far have not been declared proclaimed offenders/persons.

Also from the statement of SHO, it transpires that both the accused facing trial are involved in other cases, two cases against Suresh and three against Amit were registered.

Lastly, as per statement of Rajesh Kumar SI/SHO, complainant is only victim in this case. xxx”

5. Ld. Counsel appearing 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.

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

7. I have heard Ld. 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 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.

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.

10. Consequently, the petition is allowed. FIR No.0303 dated 20.05.2021, registered for offences punishable under Sections 148, 149, 285, 506 of the Indian Penal Code, 1860 and under Sections 25, 54 and 59 of the Arms Act, 1959 and Section 307 IPC were added later on at Police Station City Palwal, Tehsil and District Palwal (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

May 02, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No