

280

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 16.01.2024

1.

CRM-M No.43332 of 2022

Anand Verma and anr.

....Petitioner(s)

Versus

State of Punjab and ors.

.....Respondent(s)

AND

2.

CRM-M No.13306 of 2023

Vijay Kumar @ Babbu and anr.

....Petitioner(s)

Versus

State of Punjab and ors.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ankur Bansal, Advocate
for the petitioners in
CRM-M-43332-2022.

Mr. G.S.Rawat, Advocate
for the petitioners in
CRM-M-13306-2023.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Sandeep Arora, Advocate
for respondent Nos.2 to 4
in CRM-M-43332-2022 and
for respondent Nos.2 to 5 in
CRM-M-13306-2023.

PANKAJ JAIN, J. (ORAL)

1 This order shall dispose off the above mentioed two petitions.

2. By way of present petition, the petitioner is seeking quashing

of FIR No.65 dated 21.05.2021, registered under Sections 406/420/465/467/468/471/120-B of IPC, at Police Station Navi Baradari, District Jalandhar and all consequent proceedings arising therefrom on the basis of compromise.

3 On 27.01.2023, the following order was passed in **CRM-M No. 43332 of 2022** as under:-

“The counsel for respondents No.2 to 4 has admitted the factum of compromise.

In the light of the no objection on behalf of counsel for respondent Nos.2 to 4, the parties are directed to appear before the learned trial court/Illaq Magistrate on 16.2.2023 or any other date convenient to the Court and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with its report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 5. Total number of victims and their names.*

To come up on 26.4.2023 for awaiting the report.

The State counsel is also directed to verify about the factum of compromise by that date.

A copy of this order be sent to the learned trial Court/Illaq Magistrate, through electronic mode, for compliance.”

4 On 17.03.2023, the following order was passed in **CRM-M No.13306 of 2023** as under:-

“The petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR (Annexure P-1) along with subsequent proceedings arising out therefrom on the basis of compromise (Annexure P-2).

Notice of motion.

Mr. Sandeep Arora, Advocate puts in appearance on behalf of respondents No.2 to 5 and has filed memorandum of appearance, which is ordered to be taken on record and has further stated that he has no objection if this petition is allowed. Counsel further undertakes to file power of attorney before the next date of hearing.

On the asking of this Court, Mr. Chaman Lal Pawar, Addl. A.G. Punjab accepts notice on behalf of the State.

In the light of the no objection on behalf of counsel for respondent Nos.2 to 5, the parties are directed to appear before the learned trial court/Illaq Magistrate on 29.3.2023 or any other date convenient to the Court and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with its report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 5. Total number of victims and their names.*

To come up on 26.4.2023 for awaiting the report.

The State counsel is also directed to verify about the factum of compromise by that date.

A copy of this order be sent to the learned trial Court/Illaq Magistrate, through electronic mode, for compliance.”

3 Pursuant to the aforesaid order, reports dated 21.04.2023 in **CRM-M-43332-2022** and report dated 18.04.2023 in **CRM-M-13306-2023** from Judicial Magistrate 1st Class, Jalandhar have been received, which are taken on record. As per the report, the Trial Court has recorded as follows:-

(1) *"I have honour to submit that vide order dated 17.03.2023 passed by the Hon'ble Justice Mr. Karamjit Singh Judge, Hon'ble Punjab & Haryana High Court, Chandigarh, the complainant namely Asha and six accused were directed to appear before this court for recording their statements. In pursuance of order dated 17.03.2023, the parties appeared before the Court of undersigned on 29.03.2023, for the purpose of recording their statements with regard to compromise.*

2. Complainant Asha wife of Ravinder Chaudhary r/o backside bank colony Shoe Market, Model House Jalandhar City c/o Field Care Shoes Aadhar no 333022718107, phone no.99144-09905, Jalandhar appeared and vide her separate statement stated that the criminal case vide FIR No. 65 dated 21.05.2021 registered under Section 420, 465, 467, 468, 471, 120-B IPC at PS Navi Baradari, Jalandhar against Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar Babbu Thapar and Nirmal Singh was registered by her. That quashing petition qua the accused Vijay @ Babbu Thapar and Daljit Singh before the Hon'ble Court has been filed. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial court. With the intervention of respectables, the matter in dispute has been compromised between her and all accused. The compromise has been effected with her free will, sound disposing mind, without any press re and without any coercion. She has further stated that she has no objection if the above-said FIR be quashed only qua Vijay @ Babbu Thapar and Daljit Singh. She has placed on record her aadhar Card is Ex.C. She placed on record the copy of compromise deed is Ex-C7.

3. A separate statement of accused Vijay @ Babbu Thapar son of Krishan Lal r/o house no.3890, Basti Sheikh Road New Ashok Nagar, Jalandhar was also recorded. He has stated that FIR No. 65 dated 21.05.2021 registered under Section 420, 406, 465, 467, 468, 471, 120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Nirmal Singh and him was registered by complainant Asha wife of Ravinder

Chaudhary. That quashing petition before the Hon'ble Court has been filed. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial court. With the intervention of respectables, the matter in dispute has been compromised between him and all the complainants namely Asha, Hanish Kumar, Ravinder Kumar, Veena Devi. He stated that the compromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion. He has placed on record the copy of self attested ID Card i.e. Aadhar Card is Ex.C5 and copy of compromise deed is Ex-C7.

4. Similarly, separate statement of accused Daljit Singh son of Darshan Singh r/o house no. 45, Thind Enclave, Kotsadiq Kala Sanghian Road Jalandhar has been recorded. He has further stated that FIR No. 65 dated 21.05.2021 registered under Section 420, 406, 465, 467, 468, 471, 120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Vijay Kumar, Nirmal Singh and him was registered by complainant Asha wife of Ravinder Chaudhary. That quashing petition before the Hon'ble Court has been filed by him. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial court. With the intervention of respectables, the matter in dispute has been compromised between him and all the complainants namely Asha, Hanish Kumar, Ravinder Kumar, Veena Devi. The compromise has been effected with my free will, sound disposing mind, without any pressure and without any coercion. He has placed on record the copy of my self attested ID Card i.e. Aadhar Card is Ex.C6 and copy of compromise deed is Ex-C7.

5. A separate statement of victim Veena wife of Mohinder Pal r/o plot no.2, Bank Colony, Model House Jalandhar phone no.9888516860 has been recorded. She has further stated that FIR No. 65 dated 21.05.2021 registered under Section 420, 465, 467, 468, 471, 120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar @ Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary, That quashing petition before the Hon'ble Court has been filed by accused persons. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial court. With the intervention of respectables, the matter in dispute has been compromised between her and other accused persons. The compromise has been effected with her free will, sound disposing mind, without any pressure and without any coercion. She has placed on record the copy of

self attested ID Card i.e. Aadhar Card is Ex.C2 (Original seen and returned) and copy of compromise deed is Ex-C7.

6. Statement of victim Hanish Kumar son of Ravinder Kumar r/o backside bank Colony Model House, Jalandhar, phone no.9803016995 has been recorded. He has stated that FIR No. 65 dated 21.05.2021 registered under Section420,465,467,468,471,120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar @ Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary. That quashing petition before the Hon'ble Court has been filed by accused persons. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial Court. With the intervention of respectables, the matter in dispute has been compromised between him and other accused persons. The compromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion qua Vijay Kumar @ Babbu Thapar and Daljit Singh. He has placed on record the copy of self attested ID Card i.e. Aadhar Card is Ex.C3 and copy of compromise deed is Ex-C7.

7. Also a separate statement of victim Ravinder Kumar son of Prem Kumar to backside bank colony, Model house, Jalandhar c/o Field Care Shoes, phone no.98143-44995 has been recorded. He has further stated that FIR No. 65 dated 21.05.2021 registered under Section420,465,467,468,471,120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar @ Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary. That quashing petition before the Hon'ble Court has been filed by accused persons. That vide order dated 17.03.2023 Hon'ble High Court has directed to record the statements before the trial court. With the intervention of respectables, the matter in dispute has been compromised between him and other accused persons. The compromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion qua Vijay Kumar @ Babbu Thapar and Daljit Singh. He has placed on record the copy of self attested ID Card i.e. Aadhar Card is Ex.C4 and copy of compromise deed is Ex-C7.

8. I have gone through the statement given by complainant Asha and accused Daljit Singh, and Vijay Kumar @ Babbu Thapar. In view of the statements, I am of the considered opinion that the compromise has been effected voluntarily between the parties and the same is without any

coercion and undue influence. Compromise between them appears to be genuine.

9. The undersigned is sending the report as directed by the Hon'ble Punjab & Haryana High Court, Chandigarh as follows:-

I. There is only one complainant and six accused in the present case.

II. As per record, no accused is PO at present.

III. The case is at the stage of awaiting supplementary challan.

IV. In view of the statements and written compromise, Ex. C7 this court finds that the compromise is genuine and voluntary.

V. Apart from the complainant, these are three victims in the present case namely Veena, Harish Kumar and Ravinder Kumar.

10. The original statements of parties recorded in the court in this case are sent herewith for kind perusal of the Hon'ble Punjab & Haryana High Court, Chandigarh.

Report submitted."

AND

(2) 2. Complainant Asha wife of Ravinder Chaudhary r/o backside bank colony Shoe Market, Model House Jalandhar City c/o Field Care Shoes Aadhar no.333022718107, phone no.99144-09995, Jalandhar appeared and vide her separate statement stated that the criminal case vide FIR No. 65 dated 21.05.2021 registered under Section 420, 465, 467, 468, 471, 120-B IPC at PS Navi Baradari, Jalandhar against Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar @ Babbu Thapar and Nirmal Singh was registered by her. She further stated that quashing petition qua the accused Anand Verma and Rohit Saroya before the Hon'ble Court has been filed. She stated that with the intervention of respectables, the matter in dispute has been compromised between her and all accused. The compromise has been effected with her free will, sound disposing mind, without any pressure and without any coercion. She has no objection if the above-said FIR be quashed only Anand Verma and Rohit Saroya. She also placed on record the copy of aadhar Card i.e. Aadhar Card is Ex C1. She has placed on record the copy of compromise deed is Ex-C7.

3. A separate statement of victim Veena wife of Mohinder Pal ro plot no.2, Bank Colony, Model House Jalandhar phone no. 9888516860 was also recorded. He stated that FIR No. 65 dated 21.05.2021 registered under Section 420,465,467,468,471,120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit

Saroya. Deepak Razzak, Daljit Singh, Vijay Kumar a Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary and that a quashing petition before the Hon'ble High Court has been filed by accused persons. She stated that with the intervention of respectables, the matter in dispute has been compromised between her and other accused persons. The compromise has been effected with her free will, sound disposing mind, without any pressure and without any coercion. She placed on record the copy of her self attested ID Card ie. Aadhar Card is Ex C2 and copy of compromise deed.

A separate statement of complainant Hanish Kumar son of Ravinder Kumar ro backside bank Colony Model House, Jalandhar, phone no. 9803016995 was also recorded. He stated that FIR No. 65 dated 21.05.2021 registered under Section 420,465,467,468,471.120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh, Vijay Kumar (@ Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary and that a quashing petition before the Hon'ble High Court has been filed by accused persons. He also stated that with the intervention of respectables, the matter in dispute has been compromised between him and other accused persons. The compromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion. He placed on record the copy of his self attestest ID Card is Aadhar Card is ExCt and copy of compromise deed is Ex.C7.

5. A separate statement of victim Ravinder Kumar son of Prem Kumat co backside bank culony, Model house, Jalandhar c/o Field Care Shoes, phong no 48143-44995, has been recorded. He stated that FIR No. 65 dated 21.05.2021 registered under Section 420,405,467,468,471.120-8 IPC at PS Navi Baradari, Jalandhar against six accused namely Ananda Ashu Verma and Rohit Saroya, Deepak Razzak, Daljit Singh Vijay Kumar Babbu Thapar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary He stated that with the intervention of respectables, the matter in dispute has been compromised between him and other accused persons. The compromise has been effected with his free will sound disposing mind, without any pressure and without any coercion. He placed on record the copy of his self attested ID Card te Aadhar Card is Ex. C4 and copy of compromise deed is Ex-C7.

6. A separate statement of accused Rohit Saroa son of Resham Lai ro house no, B-1 353. bye pass Road, Maqsudan, Jalandhar was also

recorded. He stated that FIR No. 65 dated 21.05.2021 registered under Section 420 465 167,468,471.120-B IPC at PS Navi Baradari. Jalandhar against six accused namely Anand a Asha Verma and Rohit Sarova Deepak Razzak Daljit Singh, Vijay Kumar Babbo Thapar and Nirmal Singh was registered by complainant Astha wife of Ravinder Chaudhary and that a quashing petition before the Hon'ble High Court has been filed by him. That vide order dated 27.01.2023 Hon'ble High Court has directed to record the statements before the trial court. He stated that with the intervention of respectables, the matter in dispute has been compromised between me and all the complainants namely Asha, Hanish Kumar, Ravinder Kumar. Veena Devi. The coropromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion. He placed on record the copy of his self attested ID Card Le Aadhar Card is Ex Co and copy of compromise deed is Ex-C7.

7. Similarly, separate statement of accused Anand Verma son of Joginder Pal Verna ro house no 3548 28-38. Model House, Road, Model Town Jalandhar was recorded, wherein criminal case FIR No. 05 dated 21.05.2021 registered under Section420,465,467,468,471,120-B IPC at PS Navi Baradari, Jalandhar against six accused namely Anand @ Ashu Verma, Rohit Saroa, Deepak Razzak, Daljit Singh, Vijay Kumar and Babbu Thappar and Nirmal Singh was registered by complainant Asha wife of Ravinder Chaudhary. He further stated that quashing petition before the Hon'ble High Court has been filed by him. He also stated that with the intervention of respectables, the matter in dispute has been compromised between him and all the complaints namely Asha, Hanish Kumar, Ravinder Kumar, Veena Devi. The compromise has been effected with his free will, sound disposing mind, without any pressure and without any coercion. He has placed on record the copy of his self attested ID Card i.e. Aadhar Card is Ex.C5 and copy of compromise deed is Ex.C7.

8. I have gone through the statement given by complainant and all accused and IO. In view of the statements and copy of compromise Ex.C7, I am of the considered opinion that the compromise has been effected voluntarily between the parties and the same is without any coercion and undue influence. It is pertient to mention here that the compromise was effected between two accused with the complainant and victims in the Mediation and Conciliation Centre of Hon'ble Punjab and Haryana High Court on 07.04.2022. It is submitted that the compromise between them appears to be genuine.

9. The undersigned is sending the report as directed by the Hon'ble

Punjab and Haryana High Court, Chandigarh as follows:-

As per the statement of IO ASI Palwinder Singh, there are six accused in the present FIR.

There is only one complainant in the present case.

As per the statement of IO ASI Palwinder Singh, none of the accused in PO at present.

The original statement of parties recorded in the court in this case are sent herewith for kind perusal of the Hon'ble Punjab and Haryana High Court."

5 Learned counsel for respondents No.2 to 4 in **CRM-M-43332-2022** and for respondent Nos.2 to 5 in **CRM-M-13306-2023** admits the fact of parties having compromised and states that they have no objection in case the FIR and all proceedings subsequent thereto against the petitioner(s) are quashed.

6 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2) in both the petitions.

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 the 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 wide and 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.*

10 Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, and it is only accused-petitioners who have approached this Court by way of present petition, the present petition is being entertained and allowed *qua* them only.

11 The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as (2018) 12 SCC 391, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made

out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12 Consequently, the petition is allowed. FIR No.65 dated 21.05.2021, registered under Sections 406/420/465/467/468/471/120-B of IPC, at Police Station Navi Baradari, District Jalandhar and all consequent proceedings arising therefrom on the basis of compromise, are, hereby, quashed *qua* the petitioner(s).

16.01.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

:

Yes/No
Yes/No