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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.15242 of 2022

Date of decision : 12.02.2024

Gurmail Singh and ors.

Versus

....Petitioners

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :

Mr. S.K.Verma, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG Punjab.

Mr. Som Nath Saini, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1

By way of present petition, the petitioners are seeking quashing of FIR No.002 dated 08.01.2022, registered under Sections 379-B and 34 of IPC at Police Station Mullanpur, District SAS Nagar, Mohali and all consequent proceedings arising therefrom on the basis of compromise.

2

On 19.10.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are facing trial in FIR No.002 dated 08.01.2022 registered for offences punishable under Sections 379-B, 34 of the Indian Penal Code, at Police Station, Mullanpur, District SAS Nagar (Mohali).

Learned counsel for the petitioners contends that the matter already stands compromised vide

compromise deed dated 24.03.2022 (Annexure P-2).

Notice of motion was issued on 08.04.2022.

Short reply filed by way of affidavit of Dharamvir Singh, Deputy Superintendent of Police, Sub Division Kharar-II, District SAS Nagar (Mohali) dated 09.01.2023 is taken on record. Copy thereof supplied to counsel opposite.

Learned counsel for respondent No.2 admits the factum of compromise between the parties.

In view of the above, the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 29.11.2023. On her doing so, the learned Duty Magistrate/Illaq 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 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 Duty Magistrate/Illaq Magistrate/trial Court 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 dated 09.02.2024 from Judicial Magistrate 1st Class, Kharar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Complainant namely Ravi Sharma son of Gyan Chand

Sharma Resident of House No.2919/1, Sector 47-C, Chandigarh as well as accused-persons namely Gurmail Singh, son of Dilbagh Singh, Resident of village Katiwal, Tehsil Baddi, District Solan, Himachal Pradesh. Rohit, son of Ram Pal, Resident of village Kalu Jhanda, Tehsil Baddi, District Solan, Himachal Pradesh and Abdul Haq son of Sadh Mohammad, Resident of Village Tibbi Kakshiwala, Tehsil Kalka, District Panchkula, Haryana appeared and their statements were recorded as to compromise. Accused-persons produced photocopy of compromise deed as Mark-A. Complainant namely Ravi Sharma suffered statement that he has no objection if the FIR is quashed against accused-persons namely Gurmail Singh, Rohit and Abdul Haq.

As per statements made by the parties, the compromise was entered into without any undue influence or without any pressure. In any opinion, compromise appears to have been made voluntarily and is genuine.

It is hence submitted that:-

1. As per FIR there are three accused-persons namely Gurmail Singh, rohit and Abdul Haq arrayed as accused in the present case.

It is submitted that as per the information provided by Investigating Officer, ASI Sh. Gurnam Singh No.706/SAS Nagar (Mohali):-

- 1. There are three accused-persons namely Gurmail Singh, Rohit and Abdul Haq in the present FIR.*
- 2. Accused-persons namely Gurmail Singh, Rohit and Abdul Haq are not declared as proclaimed offender in the present case.*
- 3. Accused-persons namely Gurmail Singh, Rohit and Abdul Haq are not involved in any other case.*
- 4. The statement of Investigating Officer is recorded and as per his statement there is only one complainant namely Ravi Sharma in the present FIR.*

It is further submitted that the compromise appears to be genuine, voluntarily and without any coercion or undue influence.

The statement of complainant Ravi Sharma as well as accused-persons namely Gurmail Singh, Rohit and Abdul Haq referred to above in original along with copy of compromise Mark-A, are being sent herewith for your kind perusal.”

4 Learned counsel for respondents 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 case the FIR is quashed based upon the compromise (Annexure P-2).

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 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 wise 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.

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.002 dated
08.01.2022, registered under Sections 379-B and 34 of IPC at Police Station
Mullanpur, District SAS Nagar, Mohali and all proceedings arising
therefrom, are, hereby, quashed *qua* the petitioners.

12.02.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No