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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15159-2023
Date of decision : 03.05.2024

ABDUL HAFIZPetitioner

Versus

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Imran Farooqi, Advocate for the petitioner (though V.C.).

Mr. J.S. Arora, DAG, Punjab

Mr. Suresh Kumar, Advocate for
Mr. Karan S. Rana, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of
FIR No.152 dated 27.12.2021 registered for the offences punishable under
Sections 279/337/427 of IPC, at Police Station Sadar Ahmedgarh, District
Malerkotla (Annexure P1) on the basis of compromise.

2. On 27.03.2023, the following order was passed :-

“This petition has been filed under Section 482 Cr.P.C.
seeking quashing of FIR No.152 dated 27.12.2021 under Sections
279/337/427 of IPC, registered at Police Station Sadar Ahmedgarh,
District Malerkotla (Annexure P1) and all other consequential
proceedings arising therefrom, on the basis of compromise dated
28.12.2022 (Annexure P-2) arrived at between the parties.

Notice of motion.

Mr. Jashanpreet Singh, DAG, Punjab puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

At this stage, Mr. Karan Singh Rana, Advocate puts in appearance on behalf of respondent No.2 and filed power of attorney in the Court today which is taken on record. Copy of the paper book be supplied during the course of the day.

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

Let the parties to appear before the trial Court/Illaq Magistrate, as the case may be, on 12.04.2023 for getting their statements recorded with regard to the compromise. Trial 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 22.05.2023.”

3. Pursuant to the aforesaid order, report from JMIC, Malerkotla dated 04.08.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In view of statements given by parties following report is hereby submitted as desired by your goodself:-

- (i) It is respectfully submitted that as per the statement of Investigating Officer ASI Jaspal Singh/1224/Sangrur, who has stated that only one accused namely Abdul Hafiz is facing trial

in the present FIR and

(ii) It is respectfully submitted that as per the statement of Investigating Officer ASI Jaspal Singh/1224/Sangrur, accused has not declared proclaimed offender.

(iii) It is respectfully submitted that as per the statement of Investigating Officer ASI Jaspal Singh/1224/Sangrur, challan has not been presented in the present FIR. He also stated that only FIR is presented in the Court and no further proceedings have been recorded before the Court.

(iv) It is respectfully submitted that in view of statements given by the parties this Court is of the considered opinion that the compromise effected between the parties (between complainant Harjeet Kaur as well as accused Abdul Hafiz) is genuine and it is effected voluntarily without any coercion or undue influence from any quarter.

(v) It is respectfully submitted that statement of Investigating Officer ASI Jaspal Singh has been recorded with regard to points no.(i), (ii) and (iii).”

4. 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 petitioner are quashed.

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

6. I have heard Ld. 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, 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.

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.152 dated 27.12.2021 registered for the offences punishable under Sections 279/337/427 of IPC, at Police Station Sadar Ahmedgarh, District Malerkotla

(Annexure P1) and all proceedings arising therefrom, are, hereby, quashed
qua the petitioner.

May 03, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No