2024:PHHC:079882

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-14778-2024
Date of decision : 27.05.2024

Vinay and another **..... Petitioners**

versus

State of Punjab and another **..... Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Kumar Yadav, Advocate
for the petitioners.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Ms. Deepika, Advocate
for respondent No.2.

****

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.357 dated 29.11.2023, registered for offences punishable under Sections 323, 34 and 506 of IPC at Police Station Ateli, District Mahendergarh on the basis of compromise dated 28.02.2024 (Annexure P-3).

2. On 21.03.2024, 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 seeking quashing of FIR No.357 dated 29.11.2023, registered for offences punishable under Sections 323, 34 and 506 of IPC at Police Station Ateli, District Mahendergarh and all subsequent proceedings arising thereto on the basis of

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compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 28.02.2024 (Annexure P-3).

Notice of motion for **27.05.2024.**

Mr. Gaurav Bansal, DAG, Haryana, who is present in Court accepts notice on behalf of respondent No.1-State.

Ms. Deepika, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **22.04.2024.**

On their doing so, the learned Illaqa 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.

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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 Illaqa 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 04.05.2024 from JMIC, Narnaul has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

> "xx xx xx
>
> It is reported that the compromise reached between the complainant Vishal Yadav and accused Vinay Yadav and Parveen Yadav appears to be genuine, voluntary and without any coercion or undue influence and the same has actually been arrived at between them. That in present case there are two accused i.e. Vinay Yadav and Parveen Yadav and no other case is registered against them. That none of the accused is declared proclaimed offender. That there is only one complainant namely Vishal Yadav."

4. Ms. Deepika, Advocate appears for respondent No.2 and admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

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

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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 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*

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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.357 dated 29.11.2023, registered for offences punishable under Sections 323, 34 and 506 of IPC at Police Station Ateli, District Mahendergarh and all

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proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

27.05.2024
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Whether speaking/reasoned Yes

Whether Reportable : No

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