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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15255-2023 (O&M)

Date of Decision: 05.03.2024

MANJEET SINGH AND OTHERS

.. Petitioners

Vs.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vipin Mahajan, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Vishal Munjal, Advocate for respondents No.2 and 3.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.20 dated 11.03.2023 under Sections 452, 307, 324, 323, 354, 336, 342, 506, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Sadar Batala, Police District Batala, District Gurdaspur, Punjab and all consequential proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-6/T), which is stated to have been effected between the parties.

2 On 27.03.2023, the following order was passed:

“The petitioners have filed the present petition seeking quashing of FIR No.20 dated 11.03.2023 under Sections 452, 307, 324, 323, 354, 336, 342, 506, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Sadar Batala, Police District Batala, District Gurdaspur, Punjab (Annexure P-1), and all other subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-6/T).

A perusal of the FIR shows that serious offences have been committed, however, the counsel for the

petitioner submits that in fact, it is a case of cross FIR, the petitioner being a financier and the dispute arose between the parties qua the non-payment of installments and prays for quashing of the FIR on the basis of compromise.

A perusal of the FIR shows that the injuries were affected by use of a Kirpan and the accused were also carrying pistol and in fact a kirpan blow was also given, apart from other injuries stated in the FIR supported by the MLR.

Notice of motion.

On the asking of Court, Mr. Pankaj Khullar, AAG, Punjab, accepts notice on behalf of respondent No.1-State and opposes the present petition. Mr. Ramandeep Singh, Advocate for Mr. Amit Gupta, Advocate accepts notice and filed Power of Attorney on behalf of respondents No.2 & 3, which is taken on record and admit the factum of compromise effected between the parties.

I am of the considered opinion that such serious offences cannot be compromised, however, learned State counsel is directed to file a detailed reply, as due to the compromise (Annexure P-6/T), there cannot be an appropriate assistance on behalf of respondents No.2 and 3, who have already compromised the matter.

Adjourned to 10.08.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 18.04.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.

However, it is made clear that recording of statement in itself shall not be a ground to quash the FIR and the matter shall be heard on the question of law as to whether such FIR can be quashed on the basis of compromise especially when the Act and conduct of the parties is against the rule of law and the society at large.”

3. Thereafter, on 16.05.2023, the following order was passed:

“The application has come up for seeking a fresh date for the parties to appear before the Area Magistrate.

For the reasons stated, I am convinced that the application requires to be allowed and it is directed that both the parties shall appear before the Area Magistrate on 25.05.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 04.08.2023.”

4. Pursuant to the aforesaid order, report dated 29.05.2023 from Id. JMIC, Batala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Petitioners/accused Manjeet Singh son of Paramjit Singh, Vijay Singh son of Sulakhan Singh, both residents of Village Hardho-jhande, Tehsil Batala, District Gurdaspur(Punjab) and Happy Pannu alias Harpreet Singh son of Tarlok Singh, resident of Village Kala Afgana, Tehsil Batala, District Gurdaspur, have appeared in the Court and they have recorded their statements that the compromise has been effected with the complainants/respondents, without any pressure, threat or undue influence. The case may be disposed off as per the compromise between the parties. They proved their ID proof as Ex.C1 to Ex. C3.

This Court is satisfied that the compromise is genuine, voluntarily and without any coercion or undue influence between the complainants and the accused persons.”

5. Learned counsel for respondent Nos.2 and 3 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, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-6/T).
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 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 wider 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 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 primarily 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.20 dated 11.03.2023 under Sections 452, 307, 324, 323, 354, 336, 342, 506, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Sadar Batala, Police District Batala, District Gurdaspur (Annexure P-6/T), are, hereby, quashed qua the

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shall be paid within 30 days from today with the Punjab State Legal Services Authority.

11.

Pending application(s), if any, shall also stand disposed off.

05.03.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No